

Section III

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CONSTITUTIONAL AMENDMENTS

A Constitutional Amendment must be passed by both the House and Senate twice, with an intervening election between first and second resolutions. After the second resolution, the amendment must be put on the ballot for a referendum. On second resolution of a Constitutional Amendment, there are two parts to the legislation. The first part is the resolution proposing to amend the Constitution, and the second part is the bill creating a referendum. This year two Constitutional Amendments were passed by the General Assembly, and both will be ballot questions in the November 2006 elections.

The following Constitutional Amendments passed:

Marriage

HJ 41 (Marshall, R. G.) (**second resolution**) provides that "only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions." The proposed amendment also prohibits the Commonwealth and its political subdivisions from creating or recognizing "a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage." Further, the proposed amendment prohibits the Commonwealth or its political subdivisions from creating or recognizing "another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage." **HB 101 (Cosgrove)** provides for the referendum at the November 2006 election.

Real Property Taxation

SJ 87 (Edwards) (**second resolution**) authorizes the General Assembly to enact legislation that will permit localities to provide a partial exemption from real property taxation for real estate and associated new structures and improvements in conservation, redevelopment, or rehabilitation areas. **SB 357** (Edwards) provides for the referendum at the November 2006 election.

Almost all Constitutional Amendments were continued to 2007, including the following:

HJ 34 (Rust) (HPE) would amend the Constitution of Virginia to exempt from property taxes privately owned motor vehicles used for nonbusiness purposes.

HJ 46 (Wittman) (HPE) would provide that the General Assembly may define and classify real estate devoted to water-dependent use and may by general law authorize any locality to allow deferral of, or relief from, portions of taxes otherwise payable on such real estate if it were not so classified. Currently, the General Assembly is afforded such power with respect to real estate devoted to agricultural, horticultural, forest, or open-space uses.

HJ 59 (Frederick) (HPE) would limit total appropriations in any fiscal year to the preceding year's total appropriations plus the greater of (i) five percent or (ii) a percentage increase equal to the rate of inflation plus the rate of population increase. However, additional appropriations could be made (a) for tax relief, (b) for deposits to the Revenue Stabilization Fund, or (c) nonrecurring capital projects. "Total appropriations" was defined so as not to include appropriated moneys that are received from the federal government or an agency or unit thereof.

Eminent Domain

HJ 62 (Armstrong) (HPE) would provide that the taking of private property by eminent domain for the primary purpose of economic development would not constitute a permissible public use. The proposed amendment would make it a judicial question whether private property is being condemned for a permissible public use. This proposed constitutional amendment is identical to the amendment proposed in **SJ 121** (Martin), which was continued to 2007 in Senate Privileges and Elections.

HJ 126 (Rapp) (HPE) would provide that the taking of private property by eminent domain for the primary purpose of tax revenue enhancement does not constitute a permissible public use.

SJ 139 (Cuccinelli) (SPE) would remove the General Assembly's power to define the "public uses" for which property may be condemned. The amendment would provide that the term "public uses" shall mean only the possession, occupation, and enjoyment of land by the general public or by public agencies, or the use of land for the creation or functioning of public utilities. Moreover, public benefits or potential public benefits, including economic or private development, or an increase in the tax base, tax revenues, employment, or general economic health, would not constitute a public use. Furthermore, the proposed amendment would make it a judicial question whether private property was being condemned for a permissible public use.

Homestead Exemptions

HJ 68 (Watts) (HPE) would authorize the General Assembly to enact legislation that would permit localities to exempt from property taxes up to the first \$100,000 of assessed value of real estate designed for continuous habitation and owned and occupied by the same individuals as their home.

SJ 79 (Whipple) (SPE) would direct the General Assembly to enact legislation that will permit localities to exempt from property taxes up to 20% of the value of residential or farm property that is designed for continuous habitation as a home and is owner-occupied. This proposed constitutional amendment is identical to the amendment proposed in **HJ 135** (Brink), which was continued to 2007 by House Privileges and Elections.

SJ 81 (Rerras) (SPE) would direct the General Assembly to enact legislation that would exempt from property taxes a part of the value of owner-occupied residences.

Redistricting Commission

HJ 2 (Shuler) (HPE) would establish a 13-member Virginia Redistricting Commission to redraw Congressional and General Assembly district boundaries after each decennial census. Would provide procedure for appointment of Commission members and standards to govern redistricting plans including the current Constitution's standards on population equality, compactness, and contiguity and additional standards to minimize splits of localities and to prohibit consideration of incumbency and political data. The amendments also would provide for 40 senators and 100 delegates rather than the present ranges of 33 to 40 senators and 90 to 100 delegates.

HJ 61 (Armstrong) (HPE) would provide for a bipartisan panel of three special masters drawn from a pool of retired judges to redraw congressional and General Assembly district boundaries after each decennial census and for voter approval of the plan adopted by the panel. The amendment was patterned after California Proposition 77 (2005).

HJ 140 (Moran) (HPE) would establish the Virginia Redistricting Commission to redraw congressional and General Assembly district boundaries after each decennial census. Appointments to the five-member Commission would begin in the year 2010 as follows: one each by the majority and minority party leaders of the Senate and House of Delegates from a pool of nominees provided by the Supreme Court and a fifth independent member appointed by the four partisan members from a pool of nominees provided by the Supreme Court. The Commission would file district plans for the General Assembly within 30 days of receipt of the federal census data, and within 90 days for congressional districts, followed by a 30-day public comment period. Criteria for redistricting plans would include population equality, compactness, contiguity, respect for communities of interest, use of geographic features and locality boundaries in drawing lines, and creation of competitive districts. Use of political data was limited to testing the effects of a plan. Information on incumbent and candidate residence is not to be used. The Commission was patterned after the Arizona Independent Redistricting Commission.

HJ 142 (Barlow) (HPE) would establish the Virginia Redistricting Commission, comprised of retired justices or judges of the Supreme Court, Court of Appeals, or circuit courts, to redraw congressional and General Assembly district boundaries after each decennial census. Appointments to the 11-member Commission would be made in the census year by the most recently retired living Chief Justice of the Virginia Supreme Court, with appointments representing each congressional district. The Commission would certify district plans for the General Assembly within one month of receipt of the new census data or by March 1 of the year following the census, whichever is later, and for the House of Representatives within three months of receipt or by June 1 of the year following the census, whichever is later.

SJ 45 (Deeds) (SPE) would establish the Virginia Redistricting Commission to redraw Congressional and General Assembly district boundaries after each decennial census. Appointments to the 13-member Commission would be made in the census year as follows: two each by the President pro tempore of the Senate, Speaker of the House of Delegates, minority leader in each house, and the state chairman of each of the two political parties receiving the most votes in the prior gubernatorial election. The 12 partisan members then would select the thirteenth member by a majority vote--if they could not agree, the Supreme Court would select from the two highest vote recipients. The Commission would certify district plans for the General Assembly within one month of receipt of the new census data or by March 1 of the year following the census, whichever was later, and for the House of Representatives within three months of receipt or by June 1 of the year following the census, whichever was later. Redistricting plans would be based on population equality, compactness, and contiguity with additional standards to minimize splits of localities and to prohibit consideration of incumbency and political data.

Terms of Office

Several constitutional amendments were introduced by Delegate Purkey seeking to amend the terms of office for the Governor, lieutenant governor, and attorney general, and to adjust appointments to the Board of Education. All of these amendments were carried over to 2007 by House Privileges and Elections.

The following Constitutional Amendment failed:

HJ 28 (Lingamfelter) would have memorialized Congress to propose an amendment to set eight-year terms for federal circuit and district court judges who now have lifetime tenure and to submit the amendment to the states for ratification. (Passed by indefinitely in House Rules)

EDUCATION

The following bills passed:

SB 410 (Hanger) directs the Board of Education to develop a plan to eliminate initiatives or conditions that are currently being funded by No Child Left Behind (NCLB), unless such initiatives or conditions are an integral and necessary component of the Commonwealth's own Standards of Quality, Standards of Accreditation, or Standards of Learning. Upon the development of the plan, the Office of the Attorney General must provide the Board and the General Assembly an estimate of the costs for providing legal services in the event that the elimination of any initiatives or conditions results in withholding of Title I funds. The Board of Education must report its plan to the Senate Committee on Education and Health, the House Committee on Education, the Senate Committee on Finance, and the House Committee on Appropriations by October 1, 2006. In FY 2005, Virginia received approximately \$335 million in NCLB funding with 93 percent provided directly to local school divisions.

The Senate and House introduced a number of bills this session, once again, providing for a "sales tax holiday" for school related items. Both houses passed legislation, **HB 532** (Parrish)/**SB 571** (McDougle); the final version agreed upon provides a sales and use tax exemption, beginning in 2006, for certain school supplies, clothing and footwear purchased during a three-day period each year beginning on the first Friday in August. The exempt items are: each school supply item with a selling price of \$20 or less and each article of clothing or footwear with a selling price of \$100 or less. The bill also authorizes dealers to absorb the sales and use tax on all other items sold during the same time period and thereby relieve the purchasers of the obligation to pay such tax. Dealers who absorb such taxes are liable for payment of the same to the Tax Commissioner. The bill incorporates **HB 121** (Jones, S.C.), **HB 131** (Cosgrove), **HB 484** (Frederick), **HB 509** (Armstrong), **HB 528** (Rust), **HB 708** (Ware, O.), **HB 1125** (Cline), and **HB 1206** (Moran).

The following bills failed:

HB 276 (Caputo) would have directed that the General Assembly, in apportioning the state and local share for the costs of providing an educational program meeting the Standards of Quality (SOQ) shall, as provided in the appropriation act, modify the formula that determines each locality's ability to pay for its share of providing an educational program meeting the prescribed SOQ to incorporate statewide average teacher salaries and to provide adjustments for the number of special education students and students receiving English as a second language instruction. (Left in House Education.)

HB 584 (Watts) would have codified the current Standards of Quality (SOQ) funding formula and calculation of composite index of local ability-to-pay, and modified the formula that determines each locality's ability to pay for its share of providing an educational program meeting the prescribed SOQ to (i) incorporate tax values and population estimates for the fiscal year ending one year prior to the fiscal biennium in which the distribution takes place; (ii) provide for a population density adjustment in certain localities; and (iii) incorporate median, rather than average, adjusted gross income. This measure reflected certain recommendations included in the Joint Legislative Audit and Review Commission (JLARC) Review on Elementary and Secondary School Funding (February 2002). (Left in House Education).

HB 780 (Albo) would have required each local school division to allocate 65% of its operating budget to instructional spending. Local school boards were to report annually to the Board of Education the percentage of their operating budgets allocated to instructional spending. Any school division that failed to meet the 65 percent requirement was to present a plan to the Board of Education to increase instructional spending by 0.5% in the following year. School divisions failing to submit such a plan were to be audited by the Auditor of Public Accounts who in turn was to submit recommendations to the Board including instruction on how such school divisions can increase their instructional spending to 65%. In addition, the Board was to report annually to the Senate Committee on Finance and the House Committee on Appropriations the amount of spending allocated by the local school divisions to instructional spending based on the reports submitted annually by the local school boards. (Left in House Education).

SB 411 (Hanger) would have directed the Commonwealth to withdraw from participation in the federal No Child Left Behind Act. The bill also would have directed the Board of Education and the Office of the Attorney General of Virginia to bring suit if Title I funds that were not related to NCLB were withheld. (Left in Senate Education and Health)

SB 544 (Stosch) would have made several changes to the Neighborhood Assistance Act including: (i) increasing the annual cap for tax credits allowed under the program from \$8 million to \$12 million, (ii) providing that \$1 million of the cap increase would be dedicated for education programs and \$3 million for providing grants to private schools for students with disabilities; and (iii) reducing the tax credit percentage for donations made by corporations and individuals from 45% to 40% along with eliminating the restriction placed upon individuals from claiming a tax credit for the donation if a charitable contribution deduction is also taken. The Department of Education was to administer the Schools for Students with Disabilities Fund from which grants would be made to private schools for students with disabilities. The Department was to establish an application process for such schools seeking grants from the Fund. The Department was to review the application and make a determination of whether to award a grant, based in part on the intended use of grant moneys by the applicant. The Fund would have been funded from monetary donations for which the Department would allocate the annual \$3 million in tax credits. The Board of Education would have been required to establish regulations for the grants program, including regulations for procedures to allocate the \$3 million in tax credits in fiscal years in which more than \$3 million in monetary donations were made to the Fund. The controversial legislation passed the Senate and was heard in the House Education and Finance Committees before being left in Appropriations. Reportedly the Senate budget includes funding for the idea, so the final outcome may yet be determined.

ELECTIONS

The following bills passed:

HB 291 (Jones)/**SB 436** (Davis) require federal and IRS 527 committees contributing more than \$10,000 to candidates in Virginia to register with the State Board of Elections. Information on contributors to federal committees will be made available by the Board through a link to filings at the Federal Election Commission. Information on contributors of \$2,500 or more to 527 committees will be filed with the State Board and available to the public. Candidates accepting more than \$10,000 from a committee must verify that the committee has registered with the State Board. Civil penalties are imposed for accepting or making contributions in violation of the Act. This bill incorporates **HB 503** (Armstrong) and **HB 1088** (Scott, J.).

HB 292 (Jones)/**SB 228** (Lambert) provide that the exemption for Internal Revenue Code § 501 (c) (3) organizations will also apply to § 501 (c) (4) and (6) organizations as long as the organization does not advocate the election or defeat of an identified candidate. This is a recommendation of the task force that assisted the State Board of Elections in conducting a review of the Campaign Finance Disclosure Act pursuant to **HJ 667** (2005).

HB 294 (Jones) retains the present law amounts that trigger reporting requirements applicable to independent expenditures: \$500 in statewide elections and \$200 in other elections. Clarifies that any person, candidate committee, or political committee may be subject to the independent expenditure reporting requirements. As introduced, this was a recommendation of the task force that assisted the State Board of Elections in conducting a review of the Campaign Finance Disclosure Act pursuant to **HJ 667** (2005).

HB 297 (Jones) redefines large contributions requiring special reports to be more than \$5,000 for statewide campaigns, more than \$1,000 for General Assembly campaigns, and more than \$500 for other campaigns. Present law requires reports for contributions greater than \$1,000 in statewide campaigns and \$500 in other campaigns. The bill also requires the special reports to be filed by 5:00 p.m. on the day following receipt, or by 5:00 p.m. on the following Monday if received on a Saturday, rather than "on the next business day."

HB 972 (Jones, S.C.)/**SB 141** (Lambert) enact a new campaign finance disclosure act; reorganizes and clarifies provisions in the act; amends various cross-references to the act; and repeals the existing act. The bill is the result of a review of the act undertaken by the State Board of Elections pursuant to **HJ 667** (2005).

HB 1177 (Rapp)/**SB 265** (Bell) increase the civil penalty from an amount not to exceed \$100 to an amount not to exceed \$1,000 for violations of the basic requirements and from an amount not to exceed \$500 to an amount not to exceed \$1,000 for violations of special requirements for radio and television advertisements. The bill also provides for a civil penalty not to exceed \$2,500 for a violation occurring during the 14 days before or on election day, and it raises from \$5,000 to \$10,000 the cap on penalties for multiple broadcasts of one advertisement.

SB 434 (Davis) delineates the circumstances when it is permissible to use paper ballots: when the paper ballot is the ballot used in the precinct; for assisting voters at curbside; for provisional votes; when voting equipment is inoperable; for absentee voting; and for certain voters in presidential elections.

The following bills were continued to 2007:

HB 46 (Dance) (HPE)/**HB 356** (Ingram) (HPE)/**SB 80** (Watkins) (SPE) would provide that the Department maintain a copy of any completed voter registration application received by it for 30 days after the next general election and that the copy may be transmitted by facsimile or electronic means to a general registrar, local electoral board, or the State Board of Elections for the purpose of determining the validity of a provisional ballot.

HB 293 (Jones) (SPE)/**SB 229** (O'Brien) (SPE) would codify the "express advocacy" standard. The Virginia Supreme Court held in *Virginia Society for Human Life, Inc. v. Caldwell*, 256 Va. 151, 500 S.E.2d

814 (1998), that the Virginia Campaign Finance Disclosure Act applies only to “express advocacy” and that the phrase “for the purpose of influencing the outcome of an election” will be interpreted to mean “express advocacy.” This is a recommendation of the task force that assisted the State Board of Elections in conducting a review of the Campaign Finance Disclosure Act pursuant to **HJ 667** (2005).

SB 231 (O'Brien) (HPE) would provide a general rule that the value of in-kind contributions benefiting multiple candidates will be divided equally among the benefiting candidates. However, the maker of the contribution may apportion the value of the contribution among the candidates on an objective basis that is stated in his campaign reports and documented in his records. The bill exempts literature distributed by local political party committees on behalf of their candidates from the apportionment requirement. As introduced, this was a recommendation of the task force that assisted the State Board of Elections in conducting a review of the Campaign Finance Disclosure Act pursuant to **HJ 667** (2005).

SB 424 (D. Davis) (SPE) would require (i) that electronic pollbooks provide a contemporaneous and continuous paper printout of the voters' names and identifying information as their names are recorded and that the local electoral board conduct a postelection audit of the electronic pollbooks; (ii) that direct recording electronic devices be equipped to produce a paper record of each vote that can be verified by the voter and used in recounts and that audits be conducted of a percentage of the equipment; and (iii) that the source codes for software used in voting equipment be placed in escrow with the State Board of Elections prior to certification of the equipment for use in Virginia and that the source codes be examined by technical experts. The bill also would prohibit any form of wireless electronic communication capability on any direct recorded electronic voting machine, optical ballot tabulator, or other voting or counting device and requires that a percentage of paper ballots be audited during recounts.

SB 658 (Ticer) (HPE) would enable victims of domestic violence to provide a post office box address, in lieu of a residence address, to be shown on any public list of registered voters. This bill would take effect January 1, 2007.

The following bills failed:

HB 9 (Shuler) would have provided a new method for the preparation of state legislative and congressional redistricting plans; spelled out standards for developing plans; precluded consideration of incumbency and political data in developing plans; assigned responsibility to the Division of Legislative Services to prepare plans for submission to the General Assembly; and established a temporary redistricting advisory commission to advise the Division, disseminate information on plans, and hold hearings for public reaction to plans. This bill was patterned after the Iowa redistricting process. (Passed by indefinitely in Privileges and Elections)

HB 11 (Parrish)/**HB 562** (Amundson) would have provided that qualified voters may vote absentee for any reason. The bill would have eliminated the present statutory list of specific reasons entitling a voter to cast an absentee ballot. Several special provisions concerning military and overseas absentee voters and disabled voters were consolidated in one new provision. This bill incorporated **HB 334** (Toscano). (Tabled in Privileges and Elections)

HB 80 (Spruill) / **HB 763** (Sickles) would have provided that any person who will be age 65 or older on the Election Day may vote absentee. (Tabled in Privileges and Elections)

HB 81 (Spruill) would have provided that any registered voter qualified to vote in the election may vote in person from 17 to three days before the election at specified times and at the sites provided in the locality. The provisions for absentee voting would have remained in effect except that the provisions for in-person absentee voting would have been superseded by the early voting process during the early voting period. (Tabled in Privileges and Elections)

HB 228 (D.C. Jones) would have authorized any county, city, or town to provide translations of elections materials and ballots. Would have required “covered” counties, cities, and towns, based on the presence of a language minority population and other factors, to provide translations of elections materials and ballots. (Passed by indefinitely in Privileges and Elections)

HB 685 (Brink)/**HB 1327** (McClellan) would have permitted a voter who applied for but has not received an absentee ballot to vote a provisional ballot at his polling place upon his signed statement that he has

not received or voted an absentee ballot. Current law requires that the voter who did not receive an absentee ballot and who lives in a locality that has established a central absentee voter precinct must be sent to that precinct to vote. (Stricken from House calendar)

HB 756 (McEachin) / **SB 627** (Deeds) would have required hard copy optical scan ballots to be rerun through appropriately programmed tabulators in recount proceedings. Present law provides that the tabulator printout will be sufficient unless it is unclear or the court orders the ballots to be rerun. (Tabled in Privileges and Elections)

HB 1166 (Eisenberg) would have provided that victims of domestic violence may provide a post office box address, in lieu of a residence address, to be shown on any public list of registered voters. (Left in Privileges and Elections)

SB 588 (Martin) would have provided that the local electoral board or general registrar, rather than the officers of election, may designate, with the consent of the chief local law-enforcement officer, a law-enforcement officer to maintain order at a polling place; and would have deleted a provision for the appointment of special officers at the polling place. (Defeated by House 33-Y 64-N)

EMINENT DOMAIN

Although **HB 94** (Suit) and **SB 394** (Stolle) (discussed in Section I of this Final Report) clearly were the focal points of eminent domain legislation considered during the 2006 Session, many other bills dealing with other aspects concerning eminent domain were also considered and are of interest to the County.

The following bills passed:

HB 132 (Cosgrove) removes the option of the landowner to choose commissioners to hear an eminent domain case. Only jurors or the court shall be permitted to hear such a matter. All of the jurors in an eminent domain proceeding are required to be freeholders in the jurisdiction of the land in question. Additionally, from an original panel of 13 jurors, each party will be granted four preemptory strikes.

HB 241 (Suit) eliminates the language relating to a property owner's waiver of the right to repurchase in certain cases of eminent domain and clearly states that such right cannot be waived.

HB 631 (Phillips) requires that the parties in a condemnation proceeding attend a dispute resolution orientation session.

HB 771 (Armstrong) requires localities to hold a public hearing prior to adopting an ordinance or resolution initiating a condemnation. Other political subdivisions are also required to hold a public hearing prior to initiating a condemnation.

HB 1537 (Saxman) provides that any sport shooting range operating or approved for construction in the Commonwealth, which upon condemnation relocates within two years to another site in the same locality, shall not be subject to any noise control standard more stringent than those in effect when the sport shooting range was originally approved for construction or began operating, whichever was earlier.

The following bills either were carried over to 2007 or were "passed by" and referred by letter to the Virginia Housing Commission:

HB 923 (Landes) (HCT) would include business losses and change in highway access in the definition of compensation that a property owner is entitled to should his property be condemned.

SB 294 (Cuccinelli) would have prohibited any regional housing authority or consolidated housing authority from acquiring property through the exercise of the power of eminent domain. This bill, which would have amended the article relating to regional housing authorities, applies to consolidated housing authorities because the provisions of the chapter applicable to regional housing authorities are applicable, by statutory reference, to consolidated housing authorities. Currently, regional housing authorities and

consolidated housing authorities enjoy the same power of eminent domain that is statutorily afforded to housing authorities created for cities and counties. (Passed by in Senate Courts; letter sent to Virginia Housing Commission)

ENVIRONMENT

The following bills passed:

HB 57 (Reynolds)/**HB 647** (Scott, E.T.) establishes a new regimen for credits that can be used in meeting a solid waste planning unit's recycling rate. Currently, a credit of one ton for each ton of recycling residue generated and deposited in a landfill, not to exceed one-fifth of the 25% requirement, is allowed in calculating the unit's recycling rate. This bill changes the credit for recycling residue and extends a two percentage point credit for source reduction programs implemented within the planning unit, a ton-for-ton credit for solid waste material that is reused, and a ton-for-ton credit for any non-municipal solid waste material that is recycled. The current requirement to maintain a minimum 25% recycling rate is reduced for less densely populated planning units or those with high unemployment rates. Failure to meet a mandated recycling rate cannot be the sole reason for denial of a permit/amendment for a new sanitary landfill, incinerator, or waste-to-energy facility.

HB 421 (Bulova) requires that permits for proposed solid waste management facilities or facility expansions be subject to analysis by the Director of the potential human health, environmental, transportation infrastructure, and transportation safety impacts and needs and an evaluation of comments by the host local government, other local governments and interested persons. The application for such permit must include certification from the locality that the new or expanded facility is consistent with the regional solid waste management plan or that the plan is in the process of being revised. Additionally, the bill requires that applications for permits-by-rule include a certification by the locality that the facility is consistent with the regional and local solid waste management plans.

HB 448 (Ware) changes the formula for allocating litter control and recycling grants. The bill increases the percentage of grants awarded to localities from the current 75% to 90%. The 20% of grants currently allocated to statewide and regional litter prevention recycling educational programs is reduced to 5% and will be awarded to localities and nonprofits for litter prevention and recycling. Up to 5% of the grants will be for administrative expenses. Grants will be for local, regional, and statewide litter control and recycling programs for which certain other grants are inadequate.

HB 596 (Sherwood)/**SB 624** (Bell) reconstitute the current Flood Prevention and Protection Assistance Fund into the new Dam Safety, Flood Prevention and Protection Assistance Fund. The new fund will be used to make loans/grants to local governments and private entities for: projects which prevent, reduce, or mitigate damages caused by flooding; upgrades to dams or impounding structures; and flood prevention studies. The Virginia Resources Authority will administer the fund, determining the interest rate and terms of any loans under a memo of understanding with the Department of Conservation and Recreation.

HB 684 (Rust) specifies the acceptable flow rates of stormwater runoff at land development sites and provides definitions of terms in the Erosion and Sediment Control and Stormwater Management Acts. The bill also exempts certain land disturbing activity from capacity and velocity requirements for natural or manmade channels if they provide the specified detention.

HB 1134 (Cline) requires the Board of Health to establish an initial fee of \$5,000 to obtain a permit authorizing land application, marketing or distribution of sewage sludge and a fee not to exceed \$1,000 for reissuance, amendment or modification of the permit. Fees are to be deposited into the Sludge Management Fund for the administration of the Department of Health's sewage sludge program. Currently, the Board may adopt regulations requiring permittees to pay a reasonable fee, not to exceed \$2,500, for a sewage sludge permit.

HB 1150 (Ligamfelter) requires the Secretary of Natural Resources to develop a clean-up plan for the Chesapeake Bay and impaired Virginia waters. The plan will include: measurable objectives; strategies and time frames to meet the objectives; a plan for disbursing funds for point and nonpoint pollution projects; and an analysis of alternative funding mechanisms. The Secretary is to submit the plan

by January 1, 2007, and semi-annual progress reports.

HB 1457 (Ware) allows an aggrieved party to conduct and submit to the State Water Control Board (SWCB) a use-attainability analysis demonstrating that the attainment of the designated use for an impaired water body is not feasible. Following review, the SWCB will determine whether the development or implementation of a total maximum daily load of pollutants should be delayed.

SB 262 (Wagner) establishes an energy policy for the Commonwealth and directs the Department of Mines, Minerals and Energy's Division of Energy, in consultation with the State Corporation Commission (SCC), Department of Environmental Quality (DEQ), and Virginia Center for Coal and Energy Research (VCCER), to prepare a ten-year comprehensive energy plan by July 1, 2007. For offshore energy resources off the Commonwealth's Atlantic shore, the bill (i) declares that it is the policy of the Commonwealth to encourage the members of the State Congressional Delegation and federal executive agencies to develop, support, and enact federal legislation, and to take appropriate federal executive action that will provide an exemption to the moratorium that prevents until 2012 surveying, exploration, development, or production of potential natural gas deposits in areas under federal jurisdiction, and to enable the Commonwealth to exercise exclusive jurisdiction with respect to offshore wind energy resources; (ii) directs royalties and other moneys paid by the federal government for offshore energy resources be deposited in a fund to be allocated among WQIF, TTF, clean coal technology research, a Coastal Energy Research Consortium, other alternative energy initiatives, and grants for producing and using clean and efficient energy; (iii) directs agencies, boards and commissions of the Commonwealth to ensure that permits or approvals required for the exploration and production of hydrocarbons within federal jurisdictional areas provide these activities be undertaken in a manner protective of the environment and public safety; (iv) prohibits the drilling of any wells for natural gas or oil in areas within 30 miles of the shoreline; and (v) prohibits the construction of onshore natural gas exploration and production facilities on the Eastern Shore.

Other initiatives (a) establish a Clean Coal Technology Research Fund, administered by the VCCER, to finance research initiatives at state institutions of higher education and to encourage such institutions to apply for federal grants for a center of excellence for advancing new clean coal technologies; (b) require designs for state buildings to incorporate reasonable cost-effective energy conservation measures and alternative energy systems; (c) direct the CTB to encourage the use of alternative fuels in vehicles used to provide public transportation; (d) create the Virginia Coastal Energy Research Consortium, including certain state universities, to serve as an interdisciplinary study, research, and information resource on coastal energy issues; (e) prohibit community associations from enacting any provisions restricting solar power or the use of solar energy collection devices within the development, except to the extent provided in the applicable instruments, declaration or rules, while authorizing associations to prohibit or restrict installation and use of such devices on common elements or common areas; and (f) encourage members of the State Congressional Delegation and federal executive agencies to develop, support, and enact federal legislation, and to take appropriate federal executive action, that will increase the Corporate Average Fuel Efficiency standards by promoting performance-based tax credits for advanced technology, and facilitating the introduction and purchase of fuel-efficient vehicles through market incentives and education programs to increase demand.

The SCC is directed to develop a system for scoring parcels for their suitability as wind energy, liquefied natural gas, nuclear energy, and solar energy facilities, upon recommendation by the Department of General Services for state-owned land, local governing bodies with the consent of the parcel's owner, or the owner of a parcel. Parcels scored as optimal sites would be eligible to use a one-stop permitting process, based on a proposal to be prepared by the SCC and Secretary of Natural Resources by December 1, 2006, if adopted by the General Assembly. The bill also provides grant awards for producing and using clean and efficient energy including: 0.85 cents for each kilowatt hour of electricity produced by a corporation from certain renewable energy resources, and grants to individuals and corporations equal to 15 percent of the cost incurred in installing photovoltaic property (\$2,000 maximum per grant), solar water heating property (\$1,000 maximum), or wind-powered electrical generators (\$1,000 maximum). Finally, the bill exempts from property taxation certified pollution control equipment and facilities used in collecting, processing, and distributing landfill gas and other gas recovered from waste products. Following much opposition by local governments, provisions in the introduced bill text that would have preempted local zoning authority over energy facilities were amended out of the bill on the House side.

SB 274 (Whipple) changes the timeframe for adoption of local stormwater management programs in Tidewater Virginia localities and in localities required under the Clean Water Act to have a Municipal Separate Storm Sewer System (MS4) permit for stormwater conveyance devices. (These devices include roads with drainage systems, catch basins, curbs, gutters, ditches, manmade channels, and storm drains.) These localities must adopt stormwater programs between 12 and 18 months after the effective date of the Virginia Soil and Water Conservation Board's regulation establishing local program criteria and delegation procedures. Under current law these localities were to have adopted a program by July 1, 2006. Any locality not in Tidewater and not requiring an MS4 permit can seek delegation of authority to administer its own program within six months following the effective date of the regulation. The bill also increases the maximum fine for violation of the provisions of the stormwater law from a civil penalty of \$25,000 to \$32,500. Fairfax County is defined as a Tidewater jurisdiction by the Chesapeake Bay Preservation Act. Fairfax County already has a stormwater management program for water conveyance devices under its MS4 permit. However, the County will be required to adopt a stormwater management program for regulation of land disturbing activity in accordance with the new timeframe.

SB 644 (Watkins) allows new or expanding publicly-owned sewage treatment works not defined as significant dischargers, but subject to the State Water Control Board's new nutrient control requirements, to apply for matching grant moneys from the Water Quality Improvement Fund (WQIF). Currently, only significant dischargers are eligible to receive grants from the WQIF. The bill also authorizes the Department of Environmental Quality to utilize the Fund for design and installation of nutrient removal technologies. Currently, grants to sewage treatment facilities are allocated for two uses, with the larger portion used for biological nutrient removal facilities and other appropriate nutrient removal technologies, and the smaller portion used only for state-of-the-art facilities. The bill removes the state-of-the-art restriction on the smaller portion.

SB 670 (O'Brien) requires that the disclosure and disclaimer forms the owner of residential real property must provide to purchasers include notice that the owner makes no representation as to whether the property is located in any resource protection areas or other environmentally protected zones subject to governmental regulation. The notice must advise purchasers to use whatever due diligence they deem necessary to determine if the property is located in such an area, including review of any official maps.

The following bills were continued to 2007:

HB 1496 (Cosgrove) (HACNR) would eliminate the requirements to obtain two permits, one from the state and one from the federal government, for proposed activities with potential impacts to nontidal wetlands. Instead, the applicant would only have to obtain either the State Programmatic General Permit or a federal permit depending on the type of project.

SB 243 (Ticer) (SFIN) would provide that, on and after January 1, 2008, an additional fee of \$1 per year will be imposed on motor vehicle registrations, with the proceeds to be used to support the Virginia Land Conservation Fund.

SB 234 (Ticer) (SACNR) would require that specialty fertilizers include a label with directions for proper fertilizer use and precautionary statements to educate users. Specialty fertilizer means a fertilizer distributed for nonfarm use, including home gardens, lawns, shrubbery, flowers, golf courses, and nurseries.

SB 413 (Hanger) (SFIN) would provide that \$100 million of recordation taxes collected each year be transferred to the WQIF after deposit of \$40 million to the U.S. Route 58 Corridor Development Fund and distribution of \$40 million to counties and cities as currently required by law.

SB 594 (Watkins) (SACNR) would prohibit localities from regulating the registration, packaging, labeling, sale, storage, distribution, use, or application of fertilizer.

SB 626 (Quayle) (SACNR) would establish a \$1 per day lodging fee on hotel, motel, and similar rooms and would provide that such revenues plus \$40 million annually in recordation tax revenues be deposited into the WQIF for funding of water quality.

The following bill failed:

HB 814 (May) would have authorized DEQ to enter into environmental covenants with interest holders in real property that restrict the use of the real property. The covenants were intended to survive transfers of ownership that might otherwise terminate the covenant. The bill spelled out the recordation process and notice to subsequent holders of interest. Prior held interests would not have been affected by the covenants. (Left in House Courts of Justice)

FEES

The following bills passed:

HB 68 (Callahan) creates a special non-reverting fund to be administered by the Supreme Court of Virginia funded by (i) a \$5 increase from July 1, 2006 through December 31, 2006 in clerks' fees for civil case filings in the district and circuit courts and a \$10 increase thereafter, (ii) doubling the filing fee in the Court of Appeals and the Supreme Court to \$50, and (iii) a \$14 increase in the Supreme Court fee for a law license certificate and a certificate of qualification. Money in the Fund is to be allocated at the direction of the Supreme Court of Virginia to staff, advance, update, maintain, replace, repair and support the telecommunications and technology systems of the judicial system. Revenues raised in support of the Fund shall not be used to supplant current funding to the judicial branch. This bill is identical to **SB 157** (Norment).

SB 457 (Davis) provides that funds collected through the \$5 assessment in criminal and traffic cases shall only be used to fund courthouse security personnel and equipment used in connection with courthouse security.

FINANCE/TAXATION

The following bills passed:

HB 194 (Kilgore) deletes the deposition requirement and replaces it with the written report of the real estate appraiser where there is no dispute as to title or value of the property in order for the court to appoint a special commissioner to sell the property and execute the deeds; this change is intended to make tax sales less costly.

HB 327 (Morgan) creates separate classes of personal property for rate purposes of watercraft, based on the weight of the watercraft and whether it is used for business purposes. The law would be permissive.

HB 491 (Frederick)/**SB 731** (Herring) require localities to add onto the notice to taxpayers of real estate reassessments the amount of the immediately prior assessment amount, and if the tax rate that will apply to the new assessed value has been established, then the notice shall include such rate, the total amount of the new tax levy, and the percentage change in the new tax levy from the immediately prior one. If the tax rate that will apply to the new assessed value has not been established, then the notice shall include the time and place of the next meeting of the local governing body at which public testimony will be accepted on any real estate tax rate changes. Finally, if such meeting is more than 60 days from the date of the reassessment notice, the notice will include information about when the date of the meeting will be set and where it will be publicized. The Senate added a technical amendment that the notice will provide information on when the date will be set and publicized, if the date has not yet been set.

HB 772 (Armstrong) precludes circuit courts from granting relief to taxpayers seeking correction of erroneous assessments in cases in which the erroneous assessment was attributable to the taxpayer's willful failure or refusal to provide necessary information, as required by law.

HB 862 (Byron)/**SB 521** (Newman) create a separate classification for personal property tax rate purposes for aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned and operated by scheduled air carriers recognized under federal law. An emergency

clause was added to this permissive legislation, effective upon passage retroactive to January 1, 2006; this would be a third separate classification for aircraft and appears to be in response to corporate aircraft in the Lynchburg area.

HB 869 (Byron)/SB 522 (Newman) authorize localities to establish a BPOL license application due date that is on or after March 1, but no later than May 1; they must do so no later than the 2007 license year. Under current law, the license application date is March 1, which was part of the 1996 legislation standardizing the administration of BPOL statewide.

HB 896 (Gear)/SB 85 (Watkins) amend the retail sales and use tax definition of "sales price" to exclude any gratuity of service charge added at the discretion of the purchaser, and any mandatory gratuity or service charge added by the restaurant, to the extent that such gratuity does not exceed 20 percent of the sales price. The bills also exempt from the local meals tax any such mandatory gratuity/service charge, provided it does not exceed 20 percent. The bill overturns current tax regulations, and will result in some state/local revenue loss, although unknown. Fairfax County currently does not have a meals tax.

HB 1148 (Orrock) pertains to the effective date for sales tax on fuels in certain transportation districts (Northern Virginia and Rappahannock) if enlarged, or a new district is formed.

HB 1231 (Welch) repeals the requirement that the deferral amount be calculated using a base-line amount equivalent to the real estate tax in the first full tax year of ownership by the taxpayer after the adoption of the deferral program by the locality, multiplied by 105%, or such higher percentage adopted by the locality in each tax year until the current tax year. This effectively removes the current statutory "cap" for the general real estate tax deferral program. The bill changes the methodology by which the amount of deferral authorized by this section may be calculated.

HB 1283 (Johnson) provides that the penalty for failing to pay a local tax or assessment shall in no case exceed the amount of the tax assessed.

HB 1421 (Ingram) is a very technical bill which clarifies, with regard to nonjudicial sales of tax delinquent properties: (i) the status of other liens against such properties, which are unaffected by the sale; (ii) the means (Treasurer's Deed) by which title is transferred; and (iii) the treatment of excesses and shortfalls in the proceeds of the sale.

SB 358 (Edwards) authorizes local governing bodies to provide for the partial exemption from taxation of (i) new structures located in redevelopment or conservation areas or rehabilitation districts and (ii) other improvements to real estate located in such districts. The partial exemption would be a percentage of the increase in assessed value as a result of the new structure or improvement or an amount not to exceed 50 percent of the construction cost of such structure or improvement. The local governing body would be allowed to establish criteria for qualifying real estate including, but not limited to, the square footage for new structures. The bill is contingent on a constitutional amendment authorizing the exemption and is supported by core city jurisdictions, in particular. This bill provides conditional enabling authority to implement the Constitutional changes proposed in **SJ 87/SB 357** if the referendum is approved in the November 2006 elections. Additional information is included in the Constitutional Amendments section on page 119.

The following bills were continued to 2007:

HB 67 (Lewis) (HFIN) would provide that 50% of the amount of state recordation taxes collected that are attributable to deeds and other instruments recorded shall be apportioned and distributed annually to or for each such county or city, beginning June 30, 2007. This provision would apply to any county or city that has a Purchase of Development Rights (PDR) program in effect, or has filed a statement of intent with the Virginia Department of Agriculture and Consumer Services that it will create such a program within three years or less from the date of such filing.

HB 155 (Alexander) (HFIN) would permit localities to tax residential property at a lower tax rate than that imposed on the general class of real property by creating a separate classification for taxation purposes. This bill generated interest because of escalating residential assessments

HB 529 (Parrish) (HFIN) would prohibit a referendum on the local food and beverage (meals) tax from being held more than once every three years in the same county.

HB 836 (Welch) (HFIN) would restrict the imposition in any city having a population of 400,000 or more of any new meals tax or tax rate increase without approval by referendum.

HB 874 (Byron)/**HB 1462** (Hull) (HFIN) would restore the sales and use tax exemption for telecommunication companies that was eliminated in the 2004 Special Session I. This would create a state revenue loss.

HB 1328 (Wittman) (HFIN) would establish a special land preservation assessment for real estate devoted to water-dependent use. The bill would provide that the General Assembly has determined that the classification of real estate devoted to water-dependent use is in the public interest for the preservation or conservation of such real estate and all provisions applicable to real estate devoted to agricultural, horticultural, forestal, and open space uses would have applied equally to real estate devoted to water-dependent use. Such property would be valued similar to agricultural, horticultural, forestal, or open space use. The provisions of this act would become effective on January 1, 2009 upon the passage of a constitutional amendment authorizing such provisions.

HB 1595 (Hugo) (HFIN) would repeal the local BPOL tax.

SB 243 (Ticer) (SFIN) would provide that, on and after January 1, 2008, an additional fee of \$1 per year will be imposed on motor vehicle registrations, with the proceeds to be used to support the Virginia Land Conservation Fund.

SB 277 (Whipple) (SFIN) would provide that \$0.02 of the recordation tax be transferred to the newly-named Virginia Housing Trust Fund. The bill also would provide that a portion of the fund shall be used to provide matching funds to localities that have both established a local housing fund and appropriated local monies to the fund. In addition, the bill would authorize grants to be made from the Fund to support innovative housing projects and low and moderate income housing projects that are located in areas experiencing extreme shortages of such housing. The estimated cost of General Fund revenues from the recordation tax was about \$52-54 million/year. A number of other bills introduced would have used the recordation tax for other purposes, particularly transportation, land preservation, and water quality. Despite an appropriations contingency clause, the bill was carried over by the Senate Finance Committee.

Tax Assessments

HJ 56 (Frederick) (HPE) would provide that assessments of real property shall not increase annually by more than one percent plus the percentage increase, if any, in the rate of inflation. Increases in the rate of taxation on real property would be limited to one percent per year.

HJ 135 (Brink) (HPE) would direct the General Assembly to enact legislation that would permit localities to exempt from property taxes up to 20 % of the value of residential or farm property that is designed for continuous habitation as a home and is owner-occupied. This proposed constitutional amendment was identical to the amendment proposed in **SJR 79** (Whipple), which was continued to 2007 in Senate Privileges and Elections.

SJ 89 (Ruff) (SPE) would provide that real property will be assessed at fair market value at the time of purchase plus the fair market value of improvements to the property at the time of the assessment.

SJ 104 (Davis) (SPE) would direct the General Assembly to enact legislation that will permit localities to exempt or partially exempt from property taxes motor vehicles owned or leased by any member of the armed forces serving in an area of active military conflict.

The following bills failed:

HB 319 (Albo) would have required that automobiles be valued for personal property tax purposes according to the National Automobile Dealers Association Used Car Pricing Guide or the Kelley Blue Book, whichever reports a lower value. (Left in House Finance)

HB 544 (Griffith) would have required the Department of Planning and Budget (DPB), in addition to providing copies of all State agency budget estimates, to prepare an analysis of such estimates for the deliberative use of the Governor and the General Assembly. The analysis was to include: (i) appropriations requested as compared to the prior year, (ii) a brief description of each agency's priorities for receiving funding; and (iii) a discussion of major changes or initiatives recommended for the ensuing fiscal year. The Department would have been required to submit the estimates and analysis to the Governor and the chairmen of the House Appropriations and Senate Finance Committees, and the provisions of the bill were contingent upon funding. (After passing the House, the bill was sent from the Senate floor back to Finance.)

HB 1364 (Wardrup) would have repealed the BPOL tax exemption for newspapers, magazines, newsletters or other publications issued daily or regularly at average intervals not exceeding three months, as well as for radio and television broadcasting stations. Delegate Wardrup has initiated this bill over several sessions. (Left in House Finance)

HB 1473 (Saxman) would have added requirements for the executive budget that is submitted to the General Assembly in December, including mission, performance measures, and targets. (The bill died in Senate Finance.)

HB 1477 (Lingamfelter) would have provided that the House and Senate Finance Committees, before considering any revenue bill that creates or increases a fee of the Commonwealth, may require a written report from the Department of Taxation that includes any or all of the following: (i) when the fee was first established; (ii) the dates and amounts by which the fee has increased over the past 10 years; (iii) the purpose for the revenue from the fee, and whether any amounts of such revenue have been spent for other purposes in the past 10 years; (iv) the total annual amount of revenues raised from the fee in each of the past 10 years; and (v) the estimated amount of revenues that will be generated by the proposed increase and the reason for the increase. All state agencies would have been required to provide assistance. (The bill was left in Senate Finance.)

HB 1613 (Ebbin) would have dedicated an amount equal to the difference between one-third of the estimated revenue to be collected for all insurance license tax for each fiscal year and the estimated revenue from the motor vehicle insurance license tax; and would have increased the motor vehicle insurance license tax from two and one-fourth percent to four and one-half percent. (The bill was PBI'd 14-8 in House Finance.)

SB 504 (Norment) would have provided that for deaths occurring on or after December 31, 2006, a tax in the amount of the federal credit shall be imposed on the taxable estate of a resident whose gross estate exceeds \$10 million. However, the tax would not have been imposed on an estate if the majority of the assets are an interest in a closely-held business or a working farm. The estimated fiscal impact was \$52 million and \$69 million for FYs 2008 and 2009, and progressively higher in subsequent years. For FY 2005, there were 14 returns for estates valued over \$10 million. **HB 40** (Tata), as passed by the House, would have repealed the estate tax by equating the Virginia tax to the amount of federal credit allowable for state estate taxes. The cost was about double that of the Senate bill. (Both bills died in conference committee, but the Senate version is embedded in the budget, so may be part of these negotiations.)

Motor Fuels Taxation

HB 581 (Watts) would have increased the tax on gasoline, diesel fuel, and alternative fuel by \$0.085 per gallon, increased the motor carrier road tax by an equivalent of \$0.085 per gallon of fuel used in the Commonwealth, and would have increased the alternative use fee for certain motor carriers from \$100 to \$150. All motor fuels taxes would have been indexed every two years beginning July 1, 2007. The revenue generated would have been used for transportation purposes as required by existing law. **HB 1601** (Hull) would have increased the tax on gasoline, diesel fuel, and alternative fuel by \$0.055 per gallon, increased the motor carrier road tax by an equivalent of \$0.055 per gallon of fuel used in the

Commonwealth, and increased the alternative use fee for certain motor carriers from \$100 to \$150. The revenue generated also would have been used for transportation purposes. (Both bills were left in the House Finance committee and did not pass subcommittee muster.)

Land Conservation Tax Credit

The House and Senate passed differing versions of bills meant to address concerns with the current Virginia Land Conservation Act. As passed by the Senate, **SB 93** (Watkins) would have provided an aggregate limit of \$600,000 or 50% of the 1999 Act, which limit includes any transfer of unused tax credits. The value of any improvement to land would not have been considered for purposes of valuing land donations for tax credit and the fair market of the land could not have exceeded the highest and best use for which the property is adaptable, and must have been supported by market evidence. The bill would have restricted tax credit to land or interest in land that (i) meets guidelines of objective criteria established by the Virginia Land Conservation Foundation, or (ii) the Secretary of Natural Resources has otherwise determined provides exceptional benefit to the Commonwealth. The bill would have permitted only one transfer of unused tax credits associated with donated property and would have prohibited nonprofit organizations from transferring any tax credit; it would also have allowed as a credit against the estate tax any unused credit held by the decedent of the estate at the time of his death. The bill also provided for other restrictions and limitations.

As passed by the House, **HB 450** (Ware) would have removed the \$100,000 annual credit limit that a taxpayer may take for qualified donations of conservation easements and required the filing of a statement for less-than-fee interest donations that describes how such interest meets the requirements of IRC § 170(h). It also would have added as qualified donations easements on historic buildings or a complex of historic buildings or a portion of such buildings if the building is listed on the Virginia Landmarks Register, provided there are restrictions on the exterior surfaces of the building or complex of buildings. A fee of 1% of the value of the donated interest, or \$5,000, whichever is less, would have been imposed on any taxpayer who transfers unused tax credits. It also would have allowed the tax credits to pass at the death of the taxpayer to his estate and allowed the estate to transfer unused tax credits.

However, both bills died at the end of the session as a compromise was not achieved at the conference level. The Senate has included its bill in the budget, so there may be further action as those negotiations continue. Senate Finance, in particular, is interested in lessening the financial impact of the current law to the Commonwealth. This has been a continuing issue the past several years.

Tax Rate Caps

All tax rate/assessment limitation bills died in subcommittee:

HB 169 (Lingamfelter) would have provided that localities must set real estate tax rates so that the total real estate tax revenue will not increase by more than 3% over the previous year's total real property tax levies, with one exception, which would allow a locality to set its property tax rate at a rate not to exceed the rate of population growth plus the rate of inflation in the locality for the immediately preceding year. In no event would the rate have been set at any amount that would produce more than 6% growth.

HB 315 (Albo) would have provided that the total tax revenue in a locality may not exceed 105% of the total tax revenue in the locality in the immediately prior year unless approved by at least a two-thirds majority vote of the local governing body.

HB 897 (Gear) would have provided that an annual assessment, biennial assessment or general reassessment of real property may not result in more than a five percent increase in the total real estate tax levies for a county, city or town, with one exception. The bill also would have provided that a county, city or town may not set its real property tax rate for any tax year at a rate that would produce more than 105 percent of the previous year's total real property tax levies for such county, city or town, with one exception. The exception would have allowed a locality to set its property tax rate at a rate not to exceed the rate of population growth plus the rate of inflation in the locality for the immediately preceding year. The average tax increase on individuals would not exceed five percent. However, some taxpayers could be above the average while others could fall below the average. Under current law, (i) the annual growth rate in a locality's total real estate taxes from an annual assessment, biennial assessment or general reassessment is not capped, provided the locality holds a public hearing in regard to its real property tax

rate; and (ii) there is no cap on real property tax rates.

The following was carried over in the House:

HJ 56 (Frederick) (HPE) would have provided that assessments of real property shall not increase annually by more than one percent plus the percentage increase, if any, in the rate of inflation. Increases in the rate of taxation on real property would have been limited to one percent per year.

FIRE/EMS-Related

The following bills passed:

HB 37 (Tata) adds local emergency medical technicians to the list of local employees for whom localities may provide retirement benefits equivalent to those provided to State Police officers.

HB 255 (Cosgrove) requires the Secretary of Public Safety to develop training guidelines to be distributed to agencies and localities with employees covered by the Line of Duty Act. Each agency or locality shall be required to provide training concerning the Act to its eligible law-enforcement and public safety officers. The training will not count towards in-service credit requirements for law-enforcement officers.

HB 610 (O'Bannon) facilitates the development of a quality of care initiative in the emergency medical services system by providing civil immunity for members of entities monitoring such care and rendering their communications privileged in the same manner as provided to other professional groups.

HB 853 (O'Bannon) clarifies that health records may be disclosed by a health care entity in connection with the health care entity's own health care operations, as specified in federal regulation (45 C.F.R. § 164.501), or in the normal course of business.

HB 1145 (Orrock) exempts emergency medical services agencies holding a permit issued by the Commissioner of Health from registration as surface transportation and removal services to remove and transport dead human bodies. The requirement that a licensed funeral service establishment receive the registration as a part of its license has been removed. The bill provides that no funeral services establishment will be required to receive such registration "in addition" to its funeral service establishment license. However, funeral service establishments must continue to comply with Board regulations governing transportation and removal services. Currently, emergency medical services agencies must apply for and receive a registration from the Board of Funeral Directors and Embalmers to remove and transport dead human bodies. Emergency medical services agencies are assessed a fee for this registration. Licensed funeral service establishments receive this registration as a part of their funeral service establishment license, without an additional charge for the registration.

HB 1180 (Carrico) allows the Governor, in his discretion, to provide up to \$2,500 per month for up to three months to a public safety employee responding to a natural or manmade disaster who has suffered an extreme personal or family hardship in the affected area. This bill incorporates **HB 1402** (Sickles).

SB 75 (Houck) requires each school to implement a "medical emergency response plan" as part of their school crisis and emergency management plan. The Department of Education must provide assistance in the development of the plan in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The Department also must prepare a model plan.

SB 498 (Puckett) authorizes the Virginia Fire Services Board to revise allocations to eligible localities.

The following bills were continued to 2007:

HB 598 (Cosgrove) (HHWI) would add emergency medical services personnel certified by the Board of Health to the list of those required to report suspected child abuse or neglect.

HB 1348 (Bell) (HMP) would create the Virginia Search and Rescue Training and Response Program within the Department of Emergency Management to coordinate search and rescue training and response in the Commonwealth.

HJ 129 (O'Bannon) (HRUL) would request the Department of Health to study the adequacy of emergency preparedness plans for the residents of special needs facilities that serve Virginia's senior citizens. The Department of Health would have to report its findings by the first day of the 2007 session.

SB 144 (Deeds) (SCL) would require providers of healthcare services to give patients, upon request, statements that identify each service provided, the charge for the service, and the amount of each charge that is not reimbursed and will be billed to the patient.

The following bills failed:

HB 465 (Ingram) would have required the Commissioners of Health, Mental Health, Mental Retardation and Substance Abuse Services, and Social Services to notify the Virginia Department of Emergency Management (VDEM) of the location and capacity of all nursing homes, hospice facilities, group homes, assisted living facilities, and adult day care facilities licensed in the Commonwealth. VDEM would have been responsible for forwarding this information to designated local emergency planning contacts and the Virginia Geographic Information Network Office, in order to assist in the planning and implementation of emergency response. (Tabled in House Health, Welfare and Institutions)

SB 135 (O'Brien) would have exempted first responders from liability, who in good faith and without compensation, rendered emergency care or assistance, whether or not in the locality of his employment as a first responder, to any injured or ill person, at the scene of an accident, fire, or life threatening emergency, or en route there from to any hospital, medical clinic or doctor's office. (Stricken at the request of Patron in Senate Courts of Justice)

FREEDOM OF INFORMATION ACT (FOIA)/ACCESS TO PUBLIC RECORDS

The following bills passed:

HB 209 (Cox) updates the Public Records Act to include provisions relating to the management and archiving of electronic records. The Public Records Act applies to all boards, commissions, departments, and authorities of the Commonwealth, its political subdivisions, including the County, and constitutional officers. All persons elected, reelected, appointed or reappointed to a body governed by the Public Records Act shall be required to read a copy of the Act, which shall be given to them within two weeks of the election or appointment. The bill creates new definitions for electronic records, lifecycle, metadata, conversion, and migration, and amends the powers and duties of the Library Board to be medium-neutral and to allow the Library to issue regulations and guidelines related to the lifecycle of records, generally. The bill requires the custodians of records to convert and migrate electronic data as necessary to maintain access to these records. Finally, the bill allows the Library to conduct audits of the record keeping practices of agencies subject to the act, and to file the audit reports with the Governor and the General Assembly. The bill also includes numerous technical amendments. This bill is a recommendation of the HJR 6 study (2004).

SB 76 (Houck) revises the current FOIA exemption for records submitted by a private entity to a responsible public entity under the PPTA and the PPEA and formalizes the earmarking process or the protection of trade secrets, financial records, and other records submitted by a private entity, by requiring a written request for an exclusion from disclosure by the private entity and for a written determination by the responsible public entity that such records will be protected from disclosure under certain circumstances. The bill also amends the PPTA and PPEA to require a public entity to post all accepted conceptual proposals, whether solicited or not. The required posting for responsible public entities that are state agencies, departments, and institutions, shall be on eVA (the Department of General Service's web-based electronic procurement program) and for responsible public entities that are local public bodies, posting shall be on the responsible public entity's website or by publication, in a newspaper of general circulation in the area in which the contract is to be performed, of a summary of the proposals

and the location where copies of the proposals are available for public inspection. Local public bodies also may post on eVA, in the discretion of the local responsible public entity. The bill also requires that at least one copy of the proposals shall be made available for public inspection. The bill provides that nothing shall be construed to prohibit the posting of the conceptual proposals by additional means deemed appropriate by the responsible public entity so as to provide maximum notice to the public of the opportunity to inspect the proposals. The bill also requires the responsible public entity to provide an opportunity for public comment 30 days before the execution of an interim or comprehensive agreement. The bill provides that once the process of bargaining of all phases or aspects of an interim or comprehensive agreement is complete, but before an interim or a comprehensive agreement is entered into, a responsible public entity shall post the proposed agreement. Once an interim or comprehensive agreement has been executed, all procurement records, excluding trade secrets, financial information, and cost estimates, shall be available to the public upon request. The bill is a recommendation of the Freedom of Information Advisory Council.

The following bill was continued to 2007:

SB 465 (Edwards) would clarify that political subdivisions of the Commonwealth, except any unit of local government, are authorized to conduct electronic communication meetings. (Passed by in Senate Local Government and Technology; letter sent to Virginia Freedom of Information Advisory Council.)

GANGS

The following bills passed:

HB 775 (Albo)/**SB 473** (Norment) expand the definition of predicate criminal act to include threats to bomb (§ 18.2-83) and receiving money for procuring person for prostitution (§ 18.2-356).

HB 847 (Albo)/**SB 561** (Stolle) require the Departments of Corrections and Juvenile Justice to collect information on individuals identified as gang members and transmit it to the Commonwealth's Attorneys' Services Council. The Council will disseminate the information to attorneys for the Commonwealth. An attorney for the Commonwealth may request an affidavit signed by the custodian of the records that a person on the list has been identified as a member of a criminal gang and the affidavit can be admitted into evidence in any court proceeding as prima facie evidence of the individual's gang membership. The bill also specifies that law-enforcement agencies, school administrations and probation offices are included as entities that may examine certain juvenile records held by the Department of Juvenile Justice (DJJ) if there is a court order determining that they have a legitimate interest. In addition, a court order may be granted if the person, agency, or institution has a legitimate interest in the juvenile. Under current law the interest is limited to the case or in the work of the court. The bill also allows the DJJ to release the social reports and records of a child to certain law enforcement employees for the purpose of investigating criminal street gang activity. This bill incorporates **SB 151** (Deeds) and **SB 351** (Howell).

HB 901 (Iaquinto)/**SB 344** (Obenshain) allow the court to order, as a condition of probation or a suspended sentence or release on bond, that a person not have any contact with a person he knows or has reason to know is a member of a criminal street gang, and mandates the condition upon conviction of a gang-related crime. The bill creates an exception for those who are members of the person's family or household.

SB 129 (O'Brien) provides that the Department of Corrections or locally operated court service unit may release any information relating to gang-related activity, obtained from an investigation of a juvenile affiliated with a criminal street gang to any State Police, local police department, or sheriff's office. The exchange of information shall be for the purpose of an investigation into criminal street gang activity.

The following bills were continued to 2007:

HB 1460 (Marsden) (SCT) would provide that upon the conviction of any person of a youth gang crime, the probation and parole officer shall verify the person's immigration status. If the officer discovers that the person is in the United States illegally, he shall report his status to the United States Immigration and

Customs Enforcement Agency. The officer then would contact the United States Immigration and Customs Enforcement Agency and report information he may have on the person and his family and household members.

The following bills failed:

HB 713 (McQuigg) would have added carrying a concealed weapon to the list of crimes defined as "predicate criminal act." (Failed to report in Courts of Justice 1-Y 13-N)

HB 1517 (Albo) would have created a Gang and Terrorism Law-enforcement Assistance Unit in the Office of the Attorney General to assist local police and State Police with the investigation and prosecution of gang participation and gang recruitment offenses, terrorism offenses, and RICO offenses. (Left in Appropriations)

GENERAL GOVERNMENT

The following bills passed:

HB 340 (Orrock)/**HB 1039** (Melvin)/**SB 200** (Houck) expand the authority to apply to a magistrate for the issuance of a summons requiring the owner or custodian of a dog believed to be dangerous or vicious to appear before the general district court to any law-enforcement official and makes the application of such a summons mandatory. A Virginia Dangerous Dog Registry is created to be maintained by the State Veterinarian; any change in the status of a dangerous dog is to be promptly submitted in writing. Surrender of dog that is subject of a pending action to animal control shall not be in lieu of prosecution. The bill also (i) expands the definition of "dangerous dogs" to include dogs that inflict injury to another cat or dog requiring the animal to be euthanized while also broadening safe harbor provisions; (ii) requires that a dog that has been found to be dangerous or vicious shall be spayed or neutered; and (iii) requires insurance be maintained for a dangerous dog and raises the policy limit requirement to \$100,000, and allows for a surety bond in lieu of an insurance policy.

HB 542 (Griffith) amends disclosure requirements in the State and Local Government Conflict of Interests Act applicable to members of local governing bodies and persons designated by them, members of school boards and persons designated them, candidates for local governing bodies and school boards, certain state officers and employees, and candidates for certain state offices. The bill also amends disclosure requirements in the General Assembly Conflicts of Interests Act applicable to state legislators, legislators-elect, and candidates for the General Assembly. For those listed above, the bill: clarifies that individual types of securities and amounts must be listed; requires more specificity as to the value of certain assets that must be disclosed; revises the definition of "close financial association;" adds a definition for "contingent liability;" and clarifies that in situations where a filer furnishes services to a business, the filer must disclose those payments only if they are made pursuant to an agreement between the filer, or persons with which the filer has a close financial relationship, and the business. Additionally, the bill specifies that references to "representation" of businesses, by the filer or close financial associates, do not include lobbying for the purposes of the State and Local Government Conflict of Interests Act, but requires disclosure of amounts that a filer paid to lobbyists for representation, for the purposes of the General Assembly Conflicts of Interests Act. The bill provides state officers, legislators and legislators-elect, but not local officers, an extension for filing deadlines under the Act that may fall on a weekend or a legal holiday.

Disclosure requirements applicable to nonsalaried citizen members of local boards, commissions and councils designated by local governing bodies, and nonsalaried citizen members of most state executive branch policy and supervisory boards, commissions and councils are amended to: add definitions for "close financial association" and "contingent liability;" specify that references to "representation" of businesses, by the filer or close financial associates, does not include lobbying; and clarify that in situations where a filer furnishes services to a business, the filer must disclose those payments only if they are made pursuant to an agreement between the filer and the business. The bill implements some of the recommendations of the HJR 186 (2004) Joint Subcommittee Studying Conflicts of Interests and Lobbyist Disclosure Filings.

HB 543 (Griffith) makes several amendments to registration and disclosure provisions for lobbyists including (i) raising the threshold for reporting any single entertainment event from \$50 to \$100, (ii) clarifying provisions for exempting uncompensated lobbyists from registration and disclosure requirements, (iii) adding a definition of "fair market value." The bill is a recommendation of the HJ 186 (2004) Joint Subcommittee Studying Conflicts of Interests and Lobbyist Disclosure Filings.

HB 699 (Suit) makes various changes to the Housing Authorities Law to updates its provisions. The bill adds several definitions including "blighted area," "blighted property," "conservation area," "redevelopment area," and "spot blight abatement plan." The bill also reconfirms that the elimination of blight in a redevelopment area, the prevention of blight in a conservation area, and the designation of individual properties as blighted pursuant to a spot blight abatement plan are public uses and purposes. In addition the bill (i) updates referendum provisions, (ii) clarifies that written notice sent by certified mail is required to all record owners at their last known address as indicated in the records of the treasurer, current real estate tax records, or the records of any other officer responsible for collecting taxes prior to the use of eminent domain and spot blight abatement proceedings, (iii) clarifies that an owner in a proposed redevelopment or conservation area has the right to present testimony before the local governing body objecting to the designation of an area as a redevelopment or conservation area, and to acquisition of their property by negotiated purchase or the use of eminent domain, and (iv) clarifies that farm structures are generally exempt from the Housing Authorities Law and that the right to establish redevelopment or conservation areas and use the process of spot blight abatement shall not abrogate the right to farm as protected in § 3.1-22.28. As the debate intensified during the Session on the scope of eminent domain authority in general (see discussion of **HB 94** (Suit) in Section I of this Report), **HB 699** was amended to eliminate certain bases on which a property may be deemed to be blighted (e.g., inadequate ventilation, percentage of land coverage, size and arrangement of rooms). Amendments adopted late in the Session impose a public hearing requirement on a housing authority regarding its annual proposed budget, before it submits its budget request to the local governing body. The bill includes various technical amendments.

HB 1027 (Hurt) authorizes a locality to provide, by ordinance, that a person convicted of violating a DUI or other traffic statute shall be liable for restitution at the time of sentencing to the locality, or a responding law enforcement or volunteer fire or rescue squad, for reasonable expenses incurred by such locality, or responding law enforcement or volunteer fire or rescue squad when providing an appropriate emergency response to any accident or incident related to such violation. Currently, the Code authorizes a locality to provide that a person convicted of violating a DUI or other traffic statute shall be liable in a separate civil action for such reasonable expenses incurred.

HB 1171 (Rapp) provides that a local governing body may remove, without limitation, any member of a local industrial development authority, planning commission, or wetlands board who misses any three meetings in a row, or any four meetings in any 12-month period.

SB 162 (Norment) exempts from Administrative Process Act regulations adopted by the Board for Housing and Community Development pursuant to the (i) Statewide Fire Prevention Code, (ii) Industrialized Building Safety Law, (iii) Uniform Statewide Building Code, and (iv) the construction, maintenance, operation, and inspection of amusement devices, provided that certain procedural requirements are followed by the Board. Under the bill, portions of the Act concerning public petitions and regulatory review of the Governor and General Assembly remain applicable.

SB 298 (Cuccinelli) provides that in any criminal or traffic case in a court not of record, if the court rules that a statute or local ordinance is unconstitutional, it shall upon motion of the Commonwealth, stay the proceedings and transmit the case to the circuit court for a determination of constitutionality. If the circuit court rules that the statute or local ordinance is unconstitutional, the Commonwealth may appeal such interlocutory order to the Court of Appeals and thereafter to the Supreme Court; however, if the circuit court rules that the statute or local ordinance is constitutional, the circuit court shall remand the case to the court not of record for trial consistent with the ruling of the circuit court. The bill also provides that a pretrial appeal may be taken by the Commonwealth in any criminal case from an order of a circuit court dismissing a warrant, information, summons, delinquency petition, or indictment, on the ground that a statute on which the order is based is unconstitutional.

The following bills were continued to 2007:

HB 1200 (Landes) (HRUL) proposes to replace general references to special forms of county government and various classifications of localities by population with the names of individual localities. This would clarify those provisions of the Virginia Code that make references to localities by (1) the form of government in use, e.g., county manager form (Arlington) or urban county executive form (Fairfax) or (2) population brackets, e.g., any county with a population between 80,000 and 90,000 or any city with a population of 160,000 or more (Virginia Beach, Norfolk, Chesapeake, Richmond, and Newport News). However, this proposal presents two significant problems. First, and most important, if the General Assembly adopts a "proper names only" policy for future grants of authority, then all such legislation will be treated as special legislation. That would require passage of such legislation by a 2/3 vote of the members elected to the House of Delegates and the Senate, and that would make it more difficult to obtain approval for legislation that is intended to benefit a limited class of local governments. Second by translating the current population classifications into lists of those localities that now have such populations, this proposal overlooks Virginia Code Section 1-236, which provides that if the population of a locality changes, then a locality that once was given a power by a population classification still retains that power. In short, the new list of the names of localities does not reflect the names of all local governments that may exercise a previously authorized power.

The following bills failed:

HB 1374 (Hull) would have provided that service by appointed members of the governing entity of any authority or other political subdivision of the Commonwealth, excluding counties, cities and towns, shall be limited to eight years. Current members would not have had their terms cut short. (Left in House General Laws)

SB 541 (Stosch) would have created the Public-Private Partnership Advisory Commission to review and advise responsible public entities that are agencies or institutions of the Commonwealth on proposals received pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) and proposed interim or comprehensive agreements pursuant to the Public-Private Transportation Act of 1995 (PPTA). The bill also would have required that the guidelines that must be adopted by responsible public entities as required by the PPEA include provisions for the financial review and analysis of the proposed qualifying project and the disclosure of such analysis to the appropriating body and consideration of nonfinancial benefits of a proposed qualifying project, and the bill contained technical amendments. This bill passed the Senate, but when it came over to the House, it was amended to incorporate the provisions of **HB 1365** (Wardrup), which had passed the House but was passed by indefinitely in Senate Rules. **HB 1365** would have established a Joint Commission on Transportation Accountability to carry out legislative oversight of state agencies with transportation responsibilities. **HB 1365** bore some relationship to **HB 1426** (Wardrup), the "concessions bill" that was left in Senate Finance but which was resurrected and incorporated into **SB 666** (Saslaw). (Failed to pass in Senate)

HEALTH AND HUMAN SERVICES

The following bills passed:

HB 300 (Jones, S.C.) provides that physician assistants' authorities are expanded; they may sign various forms and certificates, and provide medical information or treatment in certain situations, including situations involving the immunization of children, examination of persons suspected of having tuberculosis, required examinations of school bus drivers, prenatal tests, nursing home residents, release of certain privileged information, release of certain veterinary records, competency for driver's licenses, and assisted living facility residents.

HB 594 (Lohr) directs the State Board of Health to prescribe regulations authorizing emergency medical services personnel to possess and administer oxygen with the authority of the local medical director and a licensed emergency medical services agency.

HB 831 (Welch) requires that, insofar as feasible, individuals eligible for Family Access to Medical Insurance Security (FAMIS) Plan must be enrolled in health maintenance organizations. The bill modifies the present requirement that the health care benefits provided under FAMIS must be through the existing Department of Medical Assistance Services' contracts with health maintenance organizations and other providers, or through new contracts with HMOs, health insurance plans, or other entities or through employer-sponsored health insurance.

HB 853 (O'Bannon) clarifies that health records may be disclosed by a health care entity in connection with the health care entity's own health care operations, as specified in federal regulation (45 C.F.R. § 164.501), or in the normal course of business.

HB 854 (Ebbin) requires the head of each state agency to designate an existing employee who shall be responsible for reviewing policy and program decisions under consideration by the agency in light of the effect of such decisions on senior citizens and adults with disabilities.

HB 1147 (Orrock) allows a person employed in day care centers to administer prescription medication to a child in a child day program, as defined in § 63.2-100 and regulated by the State Board of Social Services or the Child Day Care Council, if the person (i) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization from a parent or guardian; (iii) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (iv) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be administered by a parent or guardian to the child.

HB 1501 (Callahan) requires that whenever an individual files a written complaint against a person licensed, certified, or registered by a health regulatory board and the board has concluded that a disciplinary proceeding will not be instituted, the board may send the person an advisory letter. The board also may inform the individual that (i) an investigation has been conducted, (ii) the matter was concluded without a disciplinary proceeding, and (iii), if appropriate, an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to confidentiality and discovery requirements.

HB 1156 (Janis) requires providers of sexual or domestic violence services to keep victim records confidential and requires the Director of the Department of Social Services to work with the Statewide Domestic Violence Coalition to develop policies and implement methods to ensure the confidentiality of victim records and records pertaining to the address or location of any shelter or facility assisted under the Family Violence Prevention and Services Act, 42 U.S.C. § 10401 et seq.

HB 1317 (Cosgrove) requires a nationwide, rather than statewide, criminal background check for any individual with whom the local board or agency is considering placing a child on an emergency, temporary, or permanent basis, including the birth parent of a child in foster care placement. In emergency circumstances, a statewide Virginia Criminal Information Network search may still be performed to satisfy the background check requirement, provided that a national search is also performed afterwards. The child shall be removed from the home immediately if any adult resident, within three days of the child's placement, fails to provide fingerprints and written permission to perform a national criminal history record check when requested.

HB 1351 (Bell) requires local departments of social services or the adult protective services hotline, upon receiving the initial report pursuant to § 63.2-1606, to notify the local law-enforcement agency directly in any cases of (i) sexual abuse as defined in § 18.2-67.10, (ii) serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect, or (iii) any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.

SB 117 (Howell) adds the requirement of a booster dose of tetanus toxoid, reduced diphtheria toxoid, and acellular pertussis (Tdap) vaccine in accordance with the board's regulations, which also shall require that prior to entering sixth grade, a child must have another booster dose of Tdap if more than five years have elapsed since the last dose.

SB 190 (Martin) authorizes the Superintendent of Public Instruction, the Director of the Department of Juvenile Justice, and the Commissioner of Social Services to issue orders of summary suspension of a license to operate a group home or other residential facility for children, in cases of immediate and substantial threat to the health, safety, and welfare of residents. The bill also authorizes the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services to issue orders of summary suspension of a license to operate a group home or other residential facility for adults, in cases of immediate and substantial threat to the health, safety, and welfare of residents. Since DMHMRSAS obtained identical summary suspension authority for children's group homes and residential facilities in 2005, this bill provides consistency in the legal authority for the interdepartmental licensure program for children's residential facilities by giving all four departments the authority to address egregious circumstances while ensuring due process for the licensees or certificate holders. Emergency regulations are required by the second enactment clause. Technical amendments also are included. This bill is a recommendation of the Joint Subcommittee Studying Private Youth and Single Family Group Homes pursuant to **HJ 685** (2005).

SB 421 (Hanger) requires all businesses and organizations that provide care to children, the elderly, or disabled to request a national criminal background check of all employees and volunteers, and punishes failure to do so with a \$500 civil penalty.

SB 663 (Miller) requires the Commonwealth Transportation Board, in cooperation with other local, regional, or statewide agencies and entities vested with transportation planning responsibilities, to establish specific mobility goals for addressing the transportation needs of populations with limited mobility and incorporate such goals in the development and implementation of the Statewide Transportation Plan required by § 33.1-23.03.

The following bills were continued to 2007:

HB 129 (Cosgrove) (HWI) would allow the State Board of Health to declare an area a hazard to the public health and require that sewer service be offered if existing sewer service is available within one-half mile of the affected area and sufficient capacity exists.

HB 416 (Tata) (HCL) would provide that "birth-related injury or death" does not include an infant's disability or death caused by maternal disease, infection, or neglect including, but not limited to, chorioamnionitis in cases in which no objective medical evidence indicates hypoxia during the time of labor, delivery, or resuscitation; maternal substance abuse; willful maternal failure during pregnancy to take medications prescribed or adhere to directives from health care providers; or prematurity in cases in which no objective medical evidence indicates hypoxia during the time of labor, delivery, or resuscitation. Other provisions impacting the Virginia Birth-Related Neurological Injury Compensation Program also are included.

HB 444 (Shuler) (HWI) would authorize stem cell research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells from any source if approved by the Stem Cell Research Oversight Committee. Other provisions define the requirements in which such research could take place.

HB 598 (Cosgrove) (HWI) would add emergency medical services personnel certified by the Board of Health to the list of those required to report suspected child abuse or neglect.

HB 875 (Frederick) (HWI) would require the State Health Commissioner, in the exercise of his authority to act for the Board of Health when it is not in session pursuant to § 32.1-20, to utilize the authority provided to the Board in § 32.1-13, relating to the suppression of nuisances dangerous to public health, to issue an emergency order prescribing corrective actions to restrict access to over-the-counter medications containing the drug Dextromethorphan (DXM) such as, but not limited to, brand and generic cough syrups. Access to the ingredients used to make methamphetamine recently has been restricted in this manner.

HB 1035 (Hamilton) (HWI) would establish the Office of Inspector General for Medical Assistance Services for the purpose of providing objective review and evaluation of all activities and services of the

Department of Medical Assistance Services and investigation and diligent prosecution of provider or recipient fraud and abuse and would set out the powers and duties of the Inspector General, including access to medical records and reporting requirements.

HB 1358 (Bell) (HWI) would allow, for life-sharing communities, an exemption from the requirement to have a staff member who is awake 24 hours per day. Also, a "Life-sharing community" would be defined.

HB 1587 (Hurt) (SCT) would require businesses and organizations to conduct national criminal background checks on employees and volunteers providing care to children, the elderly and disabled.

SB 206 (Edwards) (SEH) would require the Board of Education to promulgate, in cooperation with the State Health Department, regulations establishing standards to facilitate the prevention and reduction of childhood obesity in the public schools and to require division superintendents to complete instruction concerning childhood obesity. A similar bill was **HB 1593** (Tyler).

SB 490 (Quayle) (SEH) would require Virginia four-year public colleges and universities to provide STI testing free of charge to students. In order to fund the requirement, the institutions could raise their student activities fee by \$5.

The following bills failed:

HB 123 (Fralin) would have required the Director of the Department of Medical Assistance Services to develop and apply for a waiver to obtain Medicaid coverage for children in need of mental health services and who are at risk of institutional placement due to the need for those services. The waiver would have been designed to provide behavioral, respite care, and family support services. The number of waiver slots requested would be dependent upon appropriations for this purpose. The bill would have required the waiver to be submitted to the federal Centers for Medicare and Medicaid Services by October 1, 2006, and would have provided for the development of emergency regulations to implement the waiver. The bill would have been contingent upon appropriations. (Tabled in House Health, Welfare, and Institutions)

HB 229 (Jones, D.C.) would have required the Department of Medical Assistance Services to include in the state plan a provision for payment of medical assistance for prevention of chronic conditions that, if not prevented, result in long-term treatment and associated costs. "Chronic conditions" included obesity, diabetes, and high blood pressure. (Tabled in House Health, Welfare, and Institutions)

HB 231 (Jones, D.C.) would have added a section requiring all operators of assisted living facilities, adult day care centers, and child welfare agencies to complete an emergency preparedness training program as a condition of licensure. (Tabled in House Health, Welfare, and Institutions)

HB 258 (Ward) would have required every employer with more than 10,000 employees to report annually to the Commissioner of Labor and Industry the amount spent, and the percentage of its payroll that was spent, on health insurance costs for its employees. If the percentage of payroll spent on health insurance costs were less than the statewide average of the percent of wages that was spent on employee health insurance costs by all employers in the Commonwealth with more than 250 employees, the employer would have been required to pay an amount equal to the difference between what the covered employer spends for health insurance costs and an amount equal to the required percent of the total wages it paid to its employees. The revenue from the assessment would have been paid in to the Virginia Family Access to Medical Insurance Security Plan Trust Fund. Violations would have been subject to civil penalties. (Stricken from the docket by House Commerce and Labor)

HB 338 (Orrock) would have required the principal of each school, pursuant to regulations adopted by the Board of Education in consultation with the State Health Commissioner, to (i) provide an annual assessment of the body mass index (BMI) of each student in the school; (ii) notify the parent or guardian, in writing, of the annual BMI percentile by age for the relevant student; and (iii) provide the parent or guardian of the relevant student with information explaining the use of BMI in identifying underweight and overweight in children and the potential health risks of various growth patterns. (Passed by indefinitely in House Education)

HB 373 (Carrico) would have required the Secretary of Health and Human Resources to enter into discussions with the states that are participating in the I-SaveRx prescription drug program implemented by the State of Illinois in October 2004. This bill incorporated **HB 388** (Englin). (Passed by indefinitely in House Rules)

HB 437 (Griffith) would have required the Director of the Department of Medical Assistance Services to develop and seek a Medicaid waiver to establish a program for long-term support of children with autism, including treatment using applied behavior analysis. The bill would have been contingent upon appropriations. (Left in House Appropriations)

HB 586 (Watts) would have required a minimum of three and one-half hours of direct care services per resident per 24-hour period as averaged quarterly, to be reported to the State Board of Health using payroll information as reported to the Internal Revenue Service. (Failed to report (defeated) in House Health, Welfare, and Institutions)

HB 603 (Amundson) would have required assessment of inmates with infectious diseases to insure safety in work and housing assignments. Also would have required an examination by a licensed physician within 30 days of any new work assignment. (Left in House Militia, Police, and Public Safety)

HB 637 (Phillips) would have required facilities holding health records to notify individuals and allow them to obtain their records before such records are destroyed. This bill also would have made technical corrections to outdated references in the Code. (Passed by indefinitely in House Health, Welfare, and Institutions)

HB 806 (Fralin) would have added to the definition of foster care services the provision of care to a child and his family when the child had been identified as needing such services to prevent or eliminate the need for relinquishment of custody. (Tabled in House Health, Welfare, and Institutions)

HB 868 (Byron) would have required a prescriber to obtain parental consent prior to prescribing Plan B, or any other form of the morning-after pill, to an unemancipated minor. Prescribing without consent would have been a Class 1 misdemeanor. (Left in House Courts of Justice)

HB 873 (Byron) would have added information technology professionals to the list of those required to report suspected child abuse or neglect. (Left in House Courts of Justice)

HB 1062 (Watts) would have required the Department of Mental Health, Mental Retardation and Substance Abuse Services to develop a two-year pilot program to provide specialized services for older adults (age 65 and older) who have serious mental illness. (Left in House Appropriations)

HB 1151 (Lingamfelter) would have prohibited the Departments of Health, Medical Assistance Services, and Social Services from making any payment, grant, or expenditure of any state funds used for family planning services, pregnancy testing, and follow-up services to subsidize directly or indirectly abortion services or administrative expenses or to any organization or affiliate of any organization that provides abortion services. (Left in House Health, Welfare, and Institutions)

HB 1434 (Brink) would have required any regular minister, priest, rabbi, or accredited practitioner to report suspected child abuse or neglect to a local department of social services or the Department of Social Services' toll-free child abuse and neglect hotline. (Left in House Courts of Justice)

SB 414 (Hanger) would have prohibited both parties of a same-sex couple from being listed on a Virginia birth certificate following the adoption of a child in another jurisdiction. (Failed to report (defeated) in Senate Education and Health)

SB 584 (Cuccinelli) would have required an attending physician or other health professional to report teenage pregnancies as child abuse or neglect upon finding that a child under the age of 15 is pregnant. (Failed to report (defeated) in Senate Rehabilitation and Social Services, 7-Y 7-N)

SB 615 (Wagner) would have established staff-to-child ratios, activity space guidelines, and training and qualification guidelines for program directors, program leaders, and general staff for regulated child day care centers. (Passed by indefinitely in Senate Rehabilitation and Social Services, 7-Y 6-N)

SB 648 (Bell) would have moved the law restricting smoking in buildings and other enclosed areas from the title relating to local government (15.2) to the title relating to health (32.1) and prohibited smoking indoors in most buildings or enclosed areas frequented by the public. (Left in House General Laws)

SB 489 (Quayle) would have specified the date that judicial and administrative support orders were effective and payment due dates. (Stricken from Senate calendar)

IMMIGRATION

The following bills passed:

HB 25 (Wright) provides that any person who falsely identifies himself to a law-enforcement officer with the intent to deceive the law-enforcement officer as to his real identity after having been lawfully detained and being requested to identify himself, is guilty of a Class 1 misdemeanor. This bill includes **HB 342** (Sherwood).

HB 170 (Lingamfelter) requires the Department of Motor Vehicles to furnish monthly lists to the State Board of Elections of license applicants who indicate a non-citizen status on their applications, and directs the State Board to forward the information to the general registrars. Non-citizen status constitutes grounds for cancelling a person's voter registration. This bill is identical to **SB 313**.

HB1046 (Reid) provides that a juvenile intake officer shall report to the United States Immigration and Customs Enforcement Agency a juvenile who is the subject of a petition alleging he committed a violent juvenile felony and who the intake officer has probable cause to believe is in the United States illegally.

SB 291 (Cuccinelli) creates a Class 5 felony for extorting money, property or other pecuniary benefit by threatening to report a person as being illegally present in the United States. This bill incorporates **SB 505** (Davis). Several other bills, **HB 418** (Bulova), **HB 965** (Ebbin), **HB 1100** (Griffith) and **HB 1152** (Lingamfelter) also sought to establish penalties for human trafficking.

The following bills were continued to 2007:

HB 1048 (Reid) (SCL) would require employers to obtain employment eligibility verification documentation as specified in Form I-9 indicating that a prospective employee is legally eligible for employment in the United States. Employers would be required to retain such Form I-9 documentation of eligibility for employment on each of their employees for the same period they are required to keep such records under federal law. Violations involving the knowing employment of persons not legally eligible for employment in the United States, in addition to being Class 1 misdemeanors, would be punishable by a fine of \$10,000. The Department of Labor and Industry would be required to provide access to a computer database to assist employers in determining whether prospective employees are legally eligible for employment. An employer that hired persons not legally eligible for employment in the United States would be ineligible to participate in foreign labor certification programs for a period of three years following conviction.

HB 1067 (Watts) (SCL) would make it a Class 1 misdemeanor to falsely represent that an alien worker has documentation indicating that he is legally eligible for employment. Each day of unlawful employment of each alien would constitute a separate civil offense punishable by a \$100 civil penalty.

HB 1460 (SCT) would provide that upon the conviction of any person of a youth gang crime, the probation and parole officer shall verify the person's immigration status. If the officer discovered that the person is in the United States illegally, he would report his status to the United States Immigration and Customs Enforcement Agency. The officer then would contact the United States Immigration and Customs Enforcement Agency and report information he may have on the person and his family and household members.

HB 1569 (HCL) would prohibit any corporation, limited liability company, business trust, or partnership

from contracting for the provision of foreign employment services unless the services provider delivers to the client company documentation verifying that the services provider has filed all reports and paid all federal and state taxes and maintained workers' compensation insurance required of an employer in the Commonwealth with respect to all of the services provider's employees who are aliens with an H-1B or L-1 temporary worker visa and who work at a facility owned or operated by the client company, or pursuant to an arrangement that provides that the individuals are subject to the direction and control of the client company. The client company would be required to maintain records documenting that the employment services provider provided the client company with the required documentation. A violation would be a Class 1 misdemeanor. Violations also would be subject to a civil penalty of not more than \$10,000.

HB 1570 (Reid) (HCL) would require that an individual executing a document to be filed with the State Corporation Commission pertaining to a corporation, limited liability company, business trust, limited partnership, or general partnership execute and submit a sworn and notarized affidavit certifying that the individual and every other individual identified in the document as an officer, director, shareholder, manager, member, partner, trustee, employee, or agent, as appropriate, of the business entity is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States. The individual would have to submit valid documentary evidence that the individual and every other individual so identified have such status. A violation would be a Class 1 misdemeanor.

SB 677 (Hanger) (HED) would prohibit the board of visitors or other governing body of a public institution of higher education in the Commonwealth from authorizing in-state tuition rates for individuals who are not citizens or nationals of the United States, are unlawfully present in the United States, or do not possess a valid visa. However, a new subsection provides that, notwithstanding the provisions regarding the governing bodies' mandates, any person meeting certain conditions would be eligible for in-state tuition, i.e., resided in Virginia while attending high school; graduated from a public or private high school in Virginia; resided in the Commonwealth for at least three years on the date of high school graduation; registered in an institution of higher education; provided an affidavit stating that he has filed an application to become a permanent resident of the United States and is actively pursuing such permanent residency or will do so as soon as he is eligible; and has submitted evidence that he or, in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis, has filed, unless exempted by state law, Virginia income tax returns for at least three years prior to the date of enrollment.

The following bills failed:

Higher Education

HB 1050 (Reid) would have made an alien who is unlawfully present in the United States, and therefore ineligible to establish domicile pursuant to § 23-7.4, ineligible on the basis of residency within Virginia for any postsecondary educational benefit, including in-state tuition, unless citizens or nationals of the United States are eligible for such benefits in no less an amount, duration, and scope without regard to whether such citizens or nationals are Virginia residents. This bill incorporates portions of **HB 1135** (Cline). (Stricken at request of patron in Senate Education and Health)

HB 262 (Hargrove), which incorporated **HB 892** (Gear), would have made an alien who is unlawfully present in the United States ineligible for enrollment in any public institution of higher education in the Commonwealth. (PBI'd in Senate Education and Health)

Funding Adjustments for English as a Second Language

HB 276 (Caputo) would have directed that the General Assembly, in apportioning the state and local share for the costs of providing an educational program meeting the Standards of Quality would, as provided in the appropriation act, modify the formula that determines each locality's ability to pay for its share of providing an educational program meeting the prescribed Standards of Quality to incorporate statewide average teacher salaries and to provide adjustments for the number of special education students and students receiving English as a second language instruction. (Left in House Education)

HB 593 (Lohr) would have established the English as a Second Language Grant Program for the purpose of providing grants to school divisions in which at least 25% of the student population receives English as a second language instruction. The program would have been administered by the Board of Education, and the Board would have been required to promulgate regulations governing the disbursement of such grants and to provide rules and guidelines for the use of funds received by school divisions from the program. Each school division receiving such funds would have to submit a report to the Board specifying how the funds were used or were intended to be used in the school division. (Left in House Education)

Other Bills

HB 157 (Ward) would have required the Department of State Police to develop a statewide database for collecting, correlating, analyzing, interpreting, and reporting data and information generated related to certain traffic stops. Local police officers and police officers of the Department of State Police would have been required to collect information pertaining to traffic stops, including the race, ethnicity, color, age, and gender of the alleged traffic offender, and to record the specific reason for the stop, whether the person was interrogated, charged, or arrested, and whether a written citation or warning was issued. Police officers also would have been required to indicate the specific traffic violation allegedly committed. Police officers participating in the collection of such traffic data and information would have been granted civil immunity for acts and omissions during the performance of their official duties, absent gross negligence or willful misconduct. The Superintendent was to report the findings and make recommendations annually to the Governor, the General Assembly, and the Attorney General and provide copies to each attorney for the Commonwealth. This act expires on July 1, 2010. Previously, this bill was a recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males in the Commonwealth and the House Committee on Transportation's Special Subcommittee on Racial Profiling and Pretextual Traffic Stops. (Left in House Militia, Police, and Public Safety)

HB 185 (Robert G. Marshall) would have provided that no public body shall enter into any contract for services unless the contract provides that only citizens of the United States, legal resident aliens, and individuals with a valid visa will perform the services under the contract or any subcontract of that contract. The bill also would have required all public bodies to include in every contract for goods or services the following provisions: During the performance of this contract, the contractor would have had to agree to (i) post in conspicuous places, available to employees and applicants for employment, a statement notifying such persons that only citizens of the United States, legal resident aliens, and individuals with a valid visa will be hired to perform the services under the contract or any subcontract of such contract; (ii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor will hire only citizens of the United States, legal resident aliens, and individuals with a valid visa to perform the services under the contract or any subcontract of such contract; and (iii) include the provisions of the foregoing clauses in every subcontract or purchase order, so that the provisions will be binding upon each subcontractor or vendor. (Left in House General Laws)

HB 186 (Robert G. Marshall) would have created the Virginia Commission on Immigration as an advisory commission in the executive branch to analyze the current impact of immigration on the Commonwealth and make recommendations on related policies. (Failed to report in Senate Rules 6-Y 8-N)

HB 287 (Daniel W. Marshall, III) would have required that all examinations of applicants for driver's licenses be conducted exclusively in the English language. Use of interpreters in connection with driver's license examinations would have been prohibited. (Tabled in House Transportation)

HB 487 (Fredrick) stated that it was the responsibility of the Governor to enter into an agreement with federal Immigration and Customs Enforcement that would allow the Department of State Police to enforce civil immigration laws. (PBI'd in House Courts of Justice)

HB 592 (Lohr) would have required the Department of Criminal Justice Services to advise and assist law-enforcement agencies in developing programs and incentives to encourage law-enforcement officers to learn languages in addition to English, including allocating funds for such programs and incentives. (Left in House Appropriations)

SB 180 (Locke) would have provided that a valid, unexpired driver's license from any other state in the United States shall be deemed proof of legal presence in the United States. (Stricken at request of patron in House Transportation)

SB 444 (Davis) would have required the circuit court clerk issuing any marriage license to ensure that each of the parties contemplating marriage provide, under oath, valid documentary evidence that each of the applicants is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States. An original license, permit, or special identification card issued by the Virginia Department of Motor Vehicles would satisfy these requirements. Any person making false statements or presenting false documentation would be guilty of perjury. (Stricken at request of patron in Courts of Justice)

SB 629 (Cuccinelli) would have provided that a business has a cause of action against any other entity in the same business if the other entity employs or employed persons it knew or should have known were illegal aliens who are ineligible for employment in the United States. In addition to economic damages, the plaintiff could recover \$500 for each such illegal alien employed by the defendant. (PBI'd in Senate Courts of Justice)

LAND USE

The following bills passed:

HB 128 (Cosgrove)/**SB 430** (Davis) provide that a declarant of a condominium is authorized to execute, file, and process any subdivision, site plan, zoning, or other land use applications or disclosures related to the condominium during the period that the condominium is under declarant control. The bill also provides that once the condominium is no longer under the control of the declarant, the authority to execute such land use applications shall belong to the executive organ of the unit owners' association or a representative appointed by the unit owners' association. In addition, the bill clarifies the meaning of "owner" of condominiums for purposes of compliance with the disclosures in land use proceedings pursuant to § 15.2-852 and disclosures of real parties in interest pursuant to § 15.2-2289.

HB 308 (Rust) raises the maximum civil penalty for an initial zoning ordinance violation from \$100 to \$200. The maximum civil penalty for second and subsequent violations of the zoning ordinance rises from \$250 to \$500.

HB 336 (Orrock) authorizes, without requiring a special use permit, the erection of certain tents intended to serve as temporary structures for a period of three days or less and that will be used primarily for private or family-related events. The requirements of the Uniform Statewide Building Code will continue to apply to such tents.

HB 744 (Marshall, D.) provides that when the local building official has initiated an enforcement action against the owner of a building or structure and the owner subsequently transfers ownership to an entity in which the owner holds more than 50% of the ownership interest, the pending enforcement action shall continue to be enforced against the owner.

HB 919 (Oder) modifies the timing for transfer of easements from a developer to a franchised cable television operator or telephone service provider. Existing language that refers to conveyance by reference on the final plat is amended to require conveyance within 30 days after a written request by the cable operator. The bill was amended to make it clear that if a subdivision plat is recorded without the joint easement, the locality is not responsible for seeing to it that the developer later provides the easement.

HB 1375 (Hull) requires certain preliminary plats to be forwarded to the appropriate state agency for

review within 10 business days of receipt by the locality.

HB 1435 (Albo) provides that localities may not require that a special exception or special use permit be obtained for the processing of wine by licensed farm wineries. Also, no locality may adopt any requirements for special exceptions or special use permits relating to licensed farm wineries that would be more restrictive than its requirements in effect as of January 1, 2006. Further, any special exception or special use permit in effect as of January 1, 2006, shall remain in effect until July 1, 2007, unless such exception or permit is either no longer required by the locality or is amended to be less restrictive. Other provisions are also included that are generally intended to temporarily preserve the status quo while the Secretary of Agriculture and Forestry undertakes a study of issues surrounding the farm winery industry. The results of such study are to be reported to the 2007 Session of the General Assembly.

HB 1454 (Scott, E.) allows any person who has created and operates an approved wetlands mitigation bank in multiple jurisdictions to annually file erosion and sediment control specifications for wetlands mitigation projects with the Virginia Soil and Water Conservation Board. The Board has 60 days to approve the specifications. If no action is taken within 60 days the specifications are deemed approved. Projects that are not covered by general specifications will have to comply with the local erosion and sediment control program. This bill will not become effective unless a specific appropriation has been approved in the general appropriation act to support this activity.

SB 409 (Hanger) authorizes the Virginia Land Conservation Foundation to award moneys from the Virginia Land Conservation Fund for purchase of development rights programs.

The following bills were continued to 2007:

HB 307 (Rust) (HCCT) would raise the maximum misdemeanor penalty for a zoning violation from \$1,000 to \$2,000. The misdemeanor maximum penalty for failure to remove or abate a zoning violation within the time period established by the court also would increase from \$1,000 to \$2,000. Each 10-day period during which a zoning violation would continue after the conviction or court-ordered abatement period has ended shall constitute a separate offense punishable by a fine of not less than \$100 nor more than \$2,500. A substitute bill that combined **HB 307** with **HB 1438** (Sickles) and that would have applied only to over-occupancy violations in Planning District 8 localities was adopted by the Committee on Counties, Cities, and Towns and then carried over to 2007.

The following bills failed:

HB 820 (May) would have expanded the existing road impact fee provisions to include school improvements and extends the applicability of such provisions from Northern Virginia localities to all localities. "Impact fee" was defined as a charge or assessment imposed against new development in order to generate revenue to fund or recover the costs of public facilities necessitated by and attributable to the new development. The value of any dedication, contribution or construction from the developer for off-site road improvements and school facility improvements within the service area would have been treated as a credit against the impact fee. Also, an obsolete sunset clause was deleted. (Left in House Counties, Cities, and Towns)

HB 1196 (Marshall, R.G) would have allowed localities to adopt provisions for the assessment of impact fees prior to issuance of a building permit. The impact fees could have been assessed in relation to the adequacy of education, transportation, parks, or public safety needs. Such fees would have been a pro rata share of the costs of reasonable and necessary capital improvements attributable to the proposed development. Prior to any impact fee assessment, the locality was to identify the particular public facility needs in its comprehensive plan, and have in place a capital improvement program that provides a reasonable basis for determining the extent or level of inadequacy of such facilities in the area of the proposed development. If the locality did not apply impact fees paid by a developer to the capital project that served as the basis for such assessment within six years of collection, then the developer could have sought a writ of mandamus to compel the locality to do so. (Left in House Counties, Cities, and Towns)

HB 1197 (Marshall, R.G.) would have allowed localities with a population of at least 80,000 and with an annual growth rate of at least one and one-quarter percent over the previous three years to adopt ordinances for the assessment of impact fees when certain public facilities are inadequate to support a proposed residential development. If the proposed development were for senior residents only, then

impact fees could have been assessed in relation to the adequacy of public safety, or public sewer or water facilities. For all other proposed residential developments, the impact fees could have been assessed in relation to the adequacy of education, transportation, or public water or sewer needs. Such fees would have been a pro rata share of the costs of reasonable and necessary capital improvements attributable to the proposed development. Prior to any impact fee assessment, the locality was to identify the particular public facility needs in its comprehensive plan, and must have in place a capital improvement program that provides a reasonable basis for determining the extent or level of inadequacy of such facilities in the area of the proposed development. If the locality did not apply impact fees paid by a developer to the capital project that served as the basis for such assessment within six years of collection, then the developer could have sought a writ of mandamus to compel the locality to do so. (Left in House Counties, Cities, and Towns)

HB 1368 (Hull) would have created the Home Serenity and Tranquility Act, which would prohibit the operation on an athletic field owned or operated by a public or private entity of any event (i) before the hour of eight o'clock in the morning, (ii) after the hour of six o'clock in the evening, or (iii) on Sunday without the unanimous written consent of the affected homeowners. The bill would have defined athletic field, homeowner, and affected homeowner. The bill would have provided a civil penalty for violation and gives an aggrieved homeowner a cause of action for violations. (Stricken from docket by House Courts of Justice)

HB 1610 (Marshall, R.G.) would have allowed a locality to deny or modify a request for rezoning when the existing and future transportation network serving the proposed development was inadequate to handle the anticipated transportation impact of the proposed development. This bill was part of the Governor's package. (Left in House Counties, Cities, and Towns)

SB 236 (Ticer) would have provided that certain Northern Virginia localities may, by ordinance, require preservation of trees on development sites to meet tree canopy requirements in proportion to predevelopment canopy. This bill also would have allowed certain Northern Virginia localities to increase the amount of tree canopy required 20 years after development on residential sites. (Passed by indefinitely in Senate Local Government 8-Y 6-N)

SB 459 (Davis) applied only to Fairfax County and would have required members of the Board of Supervisors who have received a gift or donation having a value greater than \$99, either singularly or in the aggregate, to make full public disclosure at or before any proceeding involving a proposed amendment to the comprehensive plan if such gift or donation was given by an interested party, including the title owner, contract purchaser, lessee, and developer of any affected land, to the proposed comprehensive plan amendment. This bill also would have required board members to disclose if such gift or donation was made by a trustee, attorney, agent, real estate broker, immediate family or household member, or close financial associate of any interested party. Currently, board members only must make full public disclosure at or before a land use proceeding if the gift or donation given by an interested party has a value greater than \$100, and the land use proceeding involves an application for a special exception, variance, or amendment of a zoning ordinance. (Failed to report in Senate Local Government 7-Y 8-N)

SB 719 (Howell) would have prohibited any public service corporation from acquiring property for a petroleum products pipeline unless the State Corporation Commission had approved the pipeline's route. The measure would have established procedural requirements and criteria for the Commission's consideration of a request for approval of such a pipeline. Currently, the location of such pipelines are subject to review by a locality under Virginia Code §15.2-2232 for conformance with the local comprehensive plan. This bill would have preempted that authority by requiring approval by the SCC. This bill was introduced at the request of Electronic Data Systems, which has property near Dulles Airport. Colonial Pipeline is proposing to extend a transmission pipeline to the airport and the route may impact EDS property. (Passed by in Senate Courts of Justice with a letter to the State Corporation Commission)

PERSONNEL

The following bills passed:

HB 473 (Ingram) deletes the requirement that the Virginia Retirement System (VRS) determine if the retirement plans of localities not participating in VRS are fulfilling the statutory requirement of providing a service retirement allowance to each employee who retires at age 65 or older that equals or exceeds two-thirds of the service retirement allowance to which the employee would have been entitled had the allowance been computed under the provisions of the VRS.

HB 476 (Purkey) requires that any severance benefits provided to departing Cabinet Secretaries and agency heads at the state level, and any departing official appointed by a local governing body shall be publicly announced by the appointing authority prior to such departure.

The following bills were continued to 2007:

HB 1387 (Callahan) (HAPP) would create the Line of Duty (LOD) Disability Fund and fund it by imposing an additional \$50 cost for certain traffic violations. The Fund would be used to pay the costs of continued health benefits coverage provided to employees and their families under the LOD Act. The bill also would provide that any local employee who meets the definition of a deceased or disabled person under the Act who was disabled on or after January 1, 1972, not otherwise already receiving the continued health insurance coverage benefit under this section, shall be entitled to the continued health insurance coverage benefit beginning July 1, 2006.

HB 1369 (Hull) (HAPP) would prohibit any local retirement system that is not under the Virginia Retirement System to allow any employee to earn more than one year of service credit for all service rendered in any period of 12 consecutive months. All retirement plans administered by the Virginia Retirement System are under the same prohibition under current law.

The following bills failed:

HB 467 (Ingram) would have added to the membership of the Virginia Retirement System all full-time employees of the Virginia Municipal League and the Virginia Association of Counties. (Left in House Appropriations).

HB 1203 (Moran) would have allowed any county or city, in its discretion, to supplement the compensation of the public defender or any of his deputies or employees above the salary fixed by the executive director of the Commission. After House passage and a close 8-7 Senate Courts and a 7-6 Senate Finance vote, the bill was defeated on the Senate floor 16-22 after Senator Stolle opposed it, citing that it is a state responsibility, albeit underfunded at this time. The bill was not requested by local governments.

SB 673 (Whipple) would have provided that any locality that self-funds a health insurance program for their officers and employees could extend coverage under such program by any other class of persons as may be mutually agreed upon by the locality and the policyholder. (Passed by indefinitely in House Counties, Cities, and Towns 13-Y 9-N)

PROCUREMENT

The following bills passed:

HB 64 (Purkey) increases the amount of required bid, payment, and performance bonds from \$100,000 to \$250,000 for transportation-related projects that are partially or wholly funded by the Commonwealth. For payment bonds for such projects, the amount is whatever is satisfactory to the public body.

HB 458 (Rust) allows a public body to enter into cooperative procurements for professional services, except for architectural or engineering services, even though the public body did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies.

HB 994 (Brink)/**SB 271** (Whipple) allow a public body to purchase an owner-controlled insurance program in connection with any public construction contract where the amount of the contract or combination of contracts is more than \$100 million. The bill defines owner-controlled insurance program and provides that no contractor or subcontractor can be required to provide insurance coverage for a construction project if that specified coverage is included in an owner-controlled insurance program in which the contractor or subcontractor is enrolled. The bill also provides that a contract for architectural and professional engineering services cannot be required to participate in such a program, except if public body elects to secure excess coverage.

HB 1183 (Caputo) provides an exception to the competitive negotiation process for the procurement of professional services; if the terms and conditions for multiple awards are included in the Request for Proposal, a public body may award contracts to more than one offeror.

HB 1192 (Marshall, R.G.)/**SB 681** (Colgan) allow localities to award a contract to certain entities that are willing to construct a more extensive road improvement by utilizing cash proffers of others as well as other available funds, upon a written determination by the governing body stating the basis for awarding one construction contract to extend the limits of the road improvement.

HB 1416 (Fralin) provides that design-build or construction management projects undertaken by any local governing body when the contract is not expected to cost more than \$1 million shall be exempt from approval of the Design-Build Review Board. As a result, such local governing bodies have authority to enter into contracts on a fixed price design-build basis or construction management basis.

SB 732 (Herring) provides that design-build or construction management projects undertaken by any local governing body of a locality with a population in excess of 100,000 shall be exempt only from approval of the Design-Build Review Board. These localities, however, must have had a one-time determination by the Design-Build Review Board that the locality has the personnel, procedures and expertise to enter into such contracts. As a result, such local governing bodies have authority to enter into contracts on a fixed price design-build basis or construction management basis.

The following bill failed:

HB 818 (May) would have provided that design-build or construction management projects undertaken by any local governing body with a population in excess of 80,000 or by two or more local governing bodies having a combined population in excess of 80,000 through cooperative procurement would be exempt from approval of the Design-Build Review Board. As a result such local governing bodies would have had authority to enter into contracts on a fixed price design-build basis or construction management basis. After this bill failed to pass, the Governor sent down **SB 732** (Herring), which did pass after some amendments were adopted. (Tabled in House General Laws)

PUBLIC SAFETY

The following bills passed:

HB 21 (Fralin) provides that crime victims shall be notified of the release of an accused on bail if they have provided their contact information.

HB 25 (Wright) provides that any person who falsely identifies himself to a law-enforcement officer with the intent to deceive the law-enforcement officer as to his real identity after having been lawfully detained and being requested to identify himself, is guilty of a Class 1 misdemeanor.

HB 70 (Orrock) adds school bus drivers and bus driver aides to the protected class of persons who are not deemed guilty of assault and battery for incidental or minor contact with a student in an attempt to maintain order. This bill is identical to **SB 26** (Houck).

HB 102 (Cosgrove) makes a third offense in ten years of driving on license that has been suspended, revoked or restricted license because of a DUI-related offense a Class 6 felony. It is currently a Class 1 misdemeanor. The implementation of the bill is contingent on appropriation of general funds.

HB 244 (Shannon) includes commercial property that has been leased or rented within the scope of the statute that allows a landlord, pursuant to an action of unlawful detainer or ejectment and after proper notice, to remove and place the personal property of the tenant into the public way.

HB 366 (Carrico) allows localities to adopt ordinances regulating noise from and use of mopeds and motorized scooters and skateboards. The bill also revises the definitions of "electric power-assisted bicycle," "moped," and "motorcycle," and defines "motorized skateboard or scooter" and "motor-driven cycle" and limits where motorized skateboards and scooters and motor-driven cycles lawfully may be operated. Similar bill **HB 111** (Albo) allows the local governing body of any county, city, or town in the Northern Virginia Planning District by ordinance to prohibit operation of any all-terrain vehicle not being used for agriculture or silviculture production on a highway or on public or private property within 500 feet of any residential district.

HB 1279 (Barlow) amends the requirement that principals or their designees receive notification from local law-enforcement authorities when students in their school commit certain crimes to require that such notification be given, whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. The bill further requires that any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 must report such information to the principal of the school in which the juvenile is enrolled.

SB 524 (Newman) amends the 1,000 foot drug-free school zone law to include licensed child day centers.

Towing

HB 1258 (Hugo)/**SB 134** (O'Brien) are the culmination of a study conducted by a joint legislative subcommittee established by **SJ 330** (2005). The subcommittee considered whether the vehicle towing and recovery industry should be regulated by the State and sought the views of representatives of the towing industry, insurance industry, local governments, state agencies, and the general public on an extensive list of issues identified in the resolution.

The 2006 legislation establishes a new State Board for Towing and Recovery Operators to regulate the business of towing and recovery of vehicles and to license towing and recovery operators. The legislation also adds numerous provisions to address some of the issues raised by the affected interest groups. To address issues identified by the towing and insurance industries, the legislation increases the cap on certain towing and storage fees and revises certain procedures related to recovery of fees. Other procedures are revised to facilitate the involvement of state agencies in the towing and recovery process. Consumer concerns are addressed by specifying the authority of local government to regulate trespass towing in several ways, including adopting ordinances to require (1) photographic evidence to justify "trespass tows"; (2) posting of signs providing notice of where towed vehicles may be reclaimed and the

name and phone number of local consumer affairs offices; and (3) a “second signature” from the property owner/agent prior to tows.

The following bills failed:

HB 97 (Cosgrove) would have provided that no magistrate may issue an arrest warrant upon the basis of a citizen complaint, for a felony offense, without prior authorization from the attorney for the Commonwealth in his jurisdiction, unless the person who is to be issued the warrant has already been placed under arrest by a law-enforcement officer. (Left in House Courts of Justice)

HB 179 (McEachin) would have required the number of full-time deputies appointed by the sheriff of a county or city to be fixed by the Compensation Board at not less than 10 deputies. The bill also would have required that a minimum of five such deputies be assigned by the sheriff to provide courtroom security. (Left in House Militia, Police, and Public Safety)

HB 1309 (Gilbert) would have provided that the juvenile criminal history of a person is specifically considered when the determination is made whether to release a person on bail. (Left in House Courts of Justice)

SB 372 (Saslaw) would have elevated the crime of impersonating a law-enforcement officer from a Class 1 misdemeanor to a Class 6 felony. The bill would have added a new crime of using a motor vehicle to stop or detain a person with the intent to deceive the person into believing that he is a law-enforcement officer. (Left in House Appropriations)

SB 649 (Lucas) would have eliminated the requirement for General Assembly approval when establishing drug treatment courts in localities of the Commonwealth and requires localities that intend to establish a drug court to apply to the state drug treatment court advisory committee which will review the application and make recommendations for approval or denial to the Chief Justice of the Supreme Court. (Left in House Courts of Justice)

SEX OFFENDER-RELATED

The following bills passed:

Omnibus Registry, Civil Commitment, and Mandatory Minimum Sentencing Bills Generated by Crime Commission’s Sex Offender Task Force study

HB 846 (Albo) requires a mandatory minimum term of confinement of 25 years for the following offenses where the offender is more than three years older than the victim and the crime is committed at the same time as or after the commission of an abduction, burglary, or aggravated malicious wounding: sexual intercourse, sodomy, or object sexual penetration of a child under 13 years of age. Such an offender is prohibited from working on the property of a school or day care center, subject to a Class 6 felony. The bill also provides that for those offenses and for abduction with intent to defile and abduction of a child under 16 years of age for immoral purposes if the term of confinement is less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years and that the suspended sentence shall be suspended (subject to revocation) for the remainder of the defendant's life. Where the conviction is for sexual intercourse, sodomy, or object sexual penetration involving a child under 13 years of age, any probationary period must include at least three years of active supervision under a postrelease supervision program operated by the Department of Corrections with a minimum of three years of electronic GPS (Global Positioning System) monitoring. In any case where a defendant is convicted of certain sexual offenses, and some portion of the sentence is suspended, the period of suspension must be at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned and the defendant must be placed on probation for that period of suspension. This bill incorporates **HB 1155** (Lingamfelter) and **HB 1252** (Hugo).

HB 984 (Sherwood) and **SB 559** (Stolle) became the omnibus bills in their respective chambers for

legislation to overhaul the Sex Offender Registry, mandatory sentencing laws, and civil commitment procedures. **HB 984** makes numerous changes to Registry provisions. First offense child pornography possession and burglary with the intent to commit certain felony sex offenses will be new Registry offenses if committed after July 1, 2006. The sex offender website will include persons convicted of all registerable sex offenses committed after July 1, 2006, not just persons convicted of violent sex offenses as under current law. The bill modifies the registration of a person convicted of murdering a child and requires lifetime registration for such a crime.

Procedures to be used by correctional institutions and juvenile facilities to obtain registration information from sex offenders under their custody are made more comprehensive, and faster timelines for transmission of information to the State Police are added. An offender will be required to submit to having a DNA sample taken (if not already taken) and to being photographed every two years. The State Police or the Department of Corrections will be required to physically verify or cause to be physically verified registration information within the first 30 days of the initial registration or change of address and semi-annually each year thereafter.

The bill stiffens penalties for convictions for failing to register and requires GPS monitoring for such offenses. Failure to register is added to the offenses for which conviction bars loitering within 100 feet of a school or a child day program. Persons convicted of certain sex offenses will be prohibited from residing within 500 feet of a school or day care center, or working or volunteering on the grounds of a school or day care center.

Local school boards are required to ensure that schools within the division are registered to receive electronic notice of sex offenders within that school division and to develop and implement policies to provide information to parents regarding the Registry, and are required to develop protocols governing the release of children to persons who are not their parent. The Department of Criminal Justice Services is required to advise and initiate training standards for criminal justice agencies and state, local and regional employees who work with the Registry. There are additional provisions in the bill. This bill incorporates **House Bills 205** (Marshall, R.G.), **247** (Shannon), **271** (Poisson), **561** (Amundson), **799** (Fralin), **985** (Sherwood), **988** (Shannon), **991** (Shannon), **993** (Shannon), **1012** (Hurt), **1015** (Hurt), and **1264** (Janis).

SB 559 (Stolle) includes the Registry provisions of **HB 984** and additionally contains provisions dealing with mandatory minimum sentences and civil commitment procedures. **SB 559** requires a mandatory minimum term of confinement of 25 years for the following offenses committed in the course of an abduction, burglary or aggravated malicious wounding where the offender is more than three years older than the victim: sexual intercourse, sodomy, or object sexual penetration of a child under 13 years of age. The bill also provides that for those offenses and for abduction with intent to defile and abduction of a child under 16 years of age for immoral purposes if the term of confinement is less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years and that the suspended sentence shall be subject to revocation for the remainder of the defendant's life. Where the conviction is for sexual intercourse, sodomy, or object sexual penetration involving a child under 13 years of age by an offender more than three years older than the victim, any probationary period must include at least three years of active supervision under a postrelease supervision program operated by the Department of Corrections with a minimum of three years of electronic GPS (Global Positioning System) monitoring. In any case where a defendant is convicted of certain other sexual offenses and some portion of the sentence is suspended, the period of suspension must be at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned and the defendant must be placed on probation for that period of suspension. The bill adds to the list of offenses that qualify as sexually violent offenses for the purposes of civil commitment and makes a felony conviction for conspiracy to commit or attempt to commit any of the qualified offenses a qualifying offense. The bill provides that the Static-99 will be used to identify prisoners who will be forwarded to the Commitment Review Committee (CRC) for assessment. The bill provides factors for a court to consider in deciding whether to release a person on conditional release. A person on conditional release will be subject to mandatory GPS monitoring. This bill incorporates **Senate Bills 316** (Howell), **319** (Howell), **320** (Deeds), **350** (Howell), **375** (McDougle), **376** (McDougle), **470** (Norment), **510** (Puckett), and **694** (Cuccinelli).

HB 1333 (Bell) adds first offense child pornography possession, burglary with the intent to commit certain felony sex offenses as new Registry offenses if committed after July 1, 2006. Criminal homicide in conjunction with contributing to the delinquency of a child or child abuse also is added as a new

Registry offense. The bill modifies the registration of a person convicted of murdering a child so that registration will be required if the victim is under 15 years of age and if the minor victim is 15 or older and the murder is related to a registerable sex offense. The bill places murder on an equal footing with sexually violent offenses for purposes of registration. Persons convicted of sex offenses in a foreign country will be required to register. The bill makes a second or subsequent conviction for failing to register as a sex offender a Class 6 felony and a second or subsequent conviction of failing to register as a violent sex offender a Class 5 felony.

HB 1359 (Bell) authorizes the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) to contract with the Department of Corrections (DOC) to provide services for the monitoring and supervision of civilly committed sexually violent predators who are on conditional release. As passed, the bill also provides that probation and parole officers may provide services in accordance with any such contract between DMHMRSAS and DOC.

Sexually Violent Predator Legislation from Sex Offender Task Force Study

HB 1037 (Hamilton) establishes within the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Office of Sexually Violent Predator Services to administer provisions relating to the civil commitment of sexually violent predators.

HB 1038 (Griffith) adds to the list of offenses that qualify as sexually violent offenses: abduction with intent to defile, abduction of a child under 16 years of age for the purpose of prostitution, carnal knowledge of a child between 13 and 15 years of age, and carnal knowledge of minors in custody of the court or state. The requirement that the complaining witness be under 13 years of age for aggravated sexual battery to qualify is removed. A felony conviction for conspiracy to commit or attempt to commit any of the qualified offenses is added as a qualifying offense. Incompetent defendants will be reviewed by the Commitment Review Committee. The bill provides that the Static-99 will be used to identify prisoners who will be forwarded to the Commitment Review Committee (CRC) for assessment and that if the Director of the Department of Corrections and the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services agree that no specific scientifically validated instrument exists to measure the risk assessment of a prisoner, the prisoner may be evaluated by a psychiatrist or psychologist to determine if he should be forwarded to the CRC. The bill provides factors for a court to consider in deciding whether to release a person on conditional release, such as living arrangements, availability of supervision, and access to treatment. A person on conditional release will be subject to mandatory GPS monitoring. The bill also adds abduction with intent to extort money or for immoral purposes to the felonies for which a presentence report is required. The provisions regarding qualifying offenses will be effective January 1, 2007, the remainder of the bill will be effective July 1, 2006.

SB 318 (Howell) authorizes the Department of Mental Health, Mental Retardation and Substance Abuse Services to contract with the Department of Corrections to provide services for the monitoring and supervision of civilly committed sexually violent predators who are on conditional release. The bill also states that if the judge places a civilly committed sexually violent predator on conditional release, the person shall be subject to electronic monitoring of his location by a GPS (Global Positioning System) tracking device. This bill has an emergency clause.

Other Sex Offender Bills That Passed:

HB 1066 (Watts) provides that it is child abuse or neglect when a child knowingly is left alone in the same dwelling with a person to whom the child is not related by blood or marriage and who the parent knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender, under circumstances that create a substantial risk of physical or mental injury

HB 1589 (Gilbert)/**SB 420** (Hanger) make it a Class 1 misdemeanor for a person to operate a family day home if he knows that any of his employees or volunteers are convicted sex offenders.

SB 578 (McDougle) provides that a person charged with aggravated sexual battery is rebuttably presumed ineligible for bail. Currently such a person is presumed ineligible when he is charged with a second such offense. The bill is not effective unless appropriate funding for it is provided in the budget bill.

The following bills were continued to 2007:

HB 1557 (Bell) (SCT) would provide that any adult who has been convicted of rape, forcible sodomy, or object sexual penetration shall be prohibited from working or volunteering on property he knows or has reason to know is a public or private elementary or secondary school or child day center property. A violation of this section would be punishable as a Class 6 felony.

SB 679 (Hanger) (SEH) would provide that in the case of a prisoner who has been determined to be a sexually violent predator, when the only alternative is involuntary secure inpatient treatment, the court may, on petition of the prisoner, order, as an alternative to involuntary secure inpatient treatment, that the prisoner (i) undergo physical castration and (ii) be placed on conditional release, in a manner and in accordance with terms and conditions developed by the Commissioner and the Department of Corrections.

The following bills failed:

HB 585 (Watts) would have merged two sex offense sections into one. The bill also would have created the crime of indecent liberties against a child under the age of 13, punishable by a Class 4 felony and a Class 3 felony for a second or subsequent offense. (Left in House Courts of Justice).

HB 992 (Shannon) would have provided that it is a Class 5 felony for any person 18 years of age or over to, with lascivious intent, knowingly and intentionally entice any minor who is three or more years his junior to do certain illicit acts. Current law limits criminal liability to enticement of any child under the age of 15 years. (Left in House Courts of Justice)

HB 1260 (Janis) would have established unequivocally that prior convictions of certain violent sex crimes are to be alleged in the indictment or information and are made a part of the evidence at trial for the purpose of enhanced punishment for second and subsequent such offenses. (Left in House Courts of Justice)

HB 1268 (Janis) would have revised the crime of using a communications system to procure or promote sexual activity involving a minor to make it consistent with the crime of using a communications system to solicit such activity. The bill would have provided that the offense occurs if the person knows or has reason to believe that the person with whom he is communicating is a minor. The bill also would have provided that using a communications system to procure or promote the offenses of crimes against nature and taking or detaining a person for prostitution or unlawful sexual intercourse is a violation of the statute and the penalty for violation is raised from a Class 6 felony to a Class 5 felony. A venue provision stated that in addition to existing venue provisions venue includes any place in which the communications system contact was initiated or received. A provision for forfeiture of a vehicle used in committing such an offense was included. (Left in House Courts of Justice)

TELECOMMUNICATIONS

Several key telecommunications bill are discussed in Part I (pp. 8-10), regarding taxation, video franchises and the E-911 Wireless Board, and in Part II (p. 63), regarding Voice over Internet Protocol (VoIP).

TRANSPORTATION

The following bills passed:

Interstate Compacts/Studies

HB 801 (Fralin)/**SB 425** (Williams) establish the Interstate Public-Private Transportation Partnership Compact that allows Virginia to enter into agreements with other states to design, construct, finance and operate interstate transportation projects.

SB 614 (Wagner) establishes the Virginia-North Carolina Interstate Toll Road Compact to set, impose, and collect tolls for use of Interstate Route Interstate 95.

SJ 184 (Wagner) requests the Secretary of Transportation and the Commonwealth Transportation Commissioner to explore the feasibility and desirability of entering into an interstate compact for the construction and operation of a controlled access highway between Dover, Delaware, and Charleston, South Carolina, via the Chesapeake Bay Bridge-Tunnel with Delaware, Maryland, North Carolina, and South Carolina.

Composition of Commonwealth Transportation Board (CTB)

HB 673 (Wardrup)/**SB 304** (Williams) provide for election of the district members of the CTB by the General Assembly. These members currently are appointed by the Governor.

Miscellaneous

HB 670 (Wardrup) requires the Department of Motor Vehicles (DMV) to implement standardized procedures and fees whereby the DMV, when so requested by the treasurer or director of finance of any county, city, or town, will refuse to issue or renew any vehicle registration of persons who owe the locality any local vehicle license fees or delinquent tangible personal property tax or parking fines. This bill becomes effective January 1, 2007.

HB 1597 (Hugo) designates the entire portion of Route 236 and Braddock Road between U.S. Route 123 and U.S. Route 28 the "Blue Star Memorial Highway."

SB 196 (Williams) provides that the CTB may enter into written agreements with localities for the building and maintenance of any of the roads in any system of state highways by local employees provided that: (i) the locality has obtained a cost estimate for the work of not less than \$300,000 nor more than \$650,000 and (ii) the locality has issued an invitation for bid and has received fewer than two bids from private entities to build or maintain such roads.

SB 412 (Houck) provides more specific functions and goals for the Intermodal Office in the Office of the Secretary of Transportation in order to better link existing systems, reduce congestion, improve mobility and provide greater travel options.

The following bills were continued to 2007:

HB 767 (Sickles) (HAPP) would dedicate 75 percent of any annual general fund surplus revenues remaining after any required deposits to the Revenue Stabilization Fund and to the Virginia Water Quality Improvement Fund to the Transportation Trust Fund (TTF).

HB 1184 (Purkey) (HTRAN) would provide for the appointment of the five at-large citizen members of the CTB by the Speaker of the House of Delegates (three), and the Senate Committee on Rules (two). The Governor would continue to appoint the remaining citizen members who must be residents of the nine construction districts. The bill would take effect only upon approval of the voters of a constitutional amendment to provide a six-year term for the Governor. This bill is a recommendation of the Joint Subcommittee to Study the Balance of Powers Between the Legislative and Executive Branches pursuant to HJ 707 (2005).

SB 431 (Davis) (STRAN) would ban transportation of hazardous materials on Hunter Mill Road in Fairfax County between Chain Bridge Road and Baron Cameron Avenue. Similar bill **HB 989** (Shannon) was tabled in House Transportation.

Transportation Trust Fund Bills

HJ 3 (Lingamfelter) (HPE) would require the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund (CTF), TTF, and Highway Maintenance and Operating Fund (HMOF). All revenues dedicated to Transportation Funds on January 1, 2007, by general law, other than a general appropriation law, would be deposited to the Transportation Funds, unless the General Assembly alters the revenues dedicated to the Funds. The amendment would limit the use of Fund moneys to transportation and related purposes. The General Assembly could borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction would have to be repaid with interest within four years.

HJ 18 (Marshall, R.G.) (HPE) would require the General Assembly to maintain permanent and separate Transportation Funds to include the CTF, TTF, and HMOF. All revenues dedicated to Transportation Funds on January 1, 2007, by general law, other than a general appropriation law, would be deposited to the Transportation Funds, unless the General Assembly altered the revenues dedicated to the Funds. The amendment limited the use of Fund moneys to transportation and related purposes. The General Assembly could borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction would have to be repaid with interest within four years.

HJ 24 (Fralin) (HPE) would provide that the HMOF and the TTF will be permanent and separate funds and will be funded annually by the General Assembly by appropriations of the revenues generated by the 1986 package of tax and fee increases and the revenues from all other sources that were appropriated to the Funds in the fiscal year ending June 30, 2005. The amendment would limit the use of Fund moneys to transportation and related purposes.

HJ 58 (Frederick) (HPE) would provide that the HMOF and the TTF shall be permanent funds. Starting with the Commonwealth's fiscal year beginning July 1, 2009, the General Assembly would have to appropriate to each Fund an amount no less than the amount appropriated to the respective Fund in the immediately preceding fiscal year. The amendment would limit the use of Trust Fund moneys to highway construction, maintenance, and improvements and to furthering the public interest in public transportation, railways, seaports, and airports. The General Assembly could use Fund proceeds for other purposes only by a four-fifths vote of the members in each house. However, Fund proceeds used for other purposes would have to be repaid to the Fund within four years.

HJ 80 (Iaquinto) (HPE) would require the General Assembly to maintain permanent and separate Transportation Funds to include the CTF, TTF, and HMOF. All revenues dedicated to Transportation Funds on January 1, 2006, by general law, other than a general appropriation law, were to have been deposited to the Transportation Funds, unless the General Assembly alters the revenues dedicated to the Funds. The amendment would limit the use of Fund moneys to transportation and related purposes. The General Assembly could borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction would have to be repaid with interest within four years. This proposed constitutional amendment was identical to the amendment proposed in **SJ 58** (Norment), which was continued to 2007 in Senate Privileges and Elections.

HJ 138 (Moran) (HPE) would provide that the HMOF and the TTF were permanent and separate funds and were to be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases and other revenues dedicated to the Funds. The amendment would limit the use of Fund moneys to transportation and related purposes. The General Assembly could borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction would have to be repaid with interest within four years.

HJ 182 (Marshall, D.) (HPE) would provide that the TTF would be a permanent fund and receive all revenues generated by the 1986 package of tax and fee increases and any later enactments dedicating

additional revenues to the Fund. The amendment would limit the use of Trust Fund moneys to purposes of highway construction, maintenance, and improvements, public transportation, railways, seaports, and airports. The General Assembly could use fund proceeds for other purposes only by a two-thirds vote of the members in each house. However, fund proceeds used for other purposes would have to be repaid to the Fund within three years.

HJ 238 (Moran) (HPE) would require the General Assembly to maintain permanent and separate Transportation Funds to include the CTF, TTF, HMOF, Priority Transportation Fund (PTF), and other funds dedicated to transportation by general law. All revenues dedicated to Transportation Funds on January 1, 2006, by general law, other than a general appropriation law, would have to be deposited to the Transportation Funds, unless the General Assembly altered the revenues dedicated to the Funds. The amendment would limit the use of Fund moneys to transportation and related purposes. The General Assembly could borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction would have to be repaid with reasonable interest within three years.

SJ 49 (O'Brien) (HPE) would require the General Assembly to maintain permanent and separate Transportation Funds to include the CTF, TTF, HMOF, PTF, and other funds dedicated to transportation by general law. All revenues dedicated to Transportation Funds on July 1, 2006, by general law, other than a general appropriation law, would be deposited to the Transportation Funds, unless the General Assembly altered the revenues dedicated to the Funds. The amendment would limit the use of Fund moneys to transportation and related purposes. The General Assembly could borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction must be repaid with interest within three years. The amendment would limit the use of general and other non-transportation funds for transportation purposes except for certain debt service payments and, additionally, an amount not to exceed \$80 million in any fiscal year. This proposed constitutional amendment was identical to the amendment proposed in **SJ 180** (Howell), which was also continued to 2007 in House Privileges and Elections.

SJ 78 (Rerras) (SPE) would provide that the HMOF and the TTF would be permanent and separate funds and would be funded annually by the General Assembly by appropriations of the revenues generated by the 1986 package of tax and fee increases and the revenues from all other sources that were appropriated to the Funds in the fiscal year ending June 30, 2005. The amendment would limit the use of Fund moneys to transportation and related purposes.

SJ 83 (Cuccinelli) (SPE) would provide that the TTF would be a permanent fund and be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases or the appropriation for the fiscal year ending June 30, 2005, whichever is greater. The amendment would limit the use of Trust Fund moneys to highway construction, improvements, administration, and maintenance, and to improve public transportation, railways, seaports, and airports. The General Assembly could borrow from the Fund for other purposes or reduce the level of required appropriations to the Fund only by a three-fifths vote of members in each house, and the loan or reduction would have to be repaid within four years.

The following bills failed:

Transportation Funding Bills

HB 85 (Cole) would have increased the sales and use tax revenue dedicated to the Transportation Trust Fund from one-half percent to one percent. (Left in House Appropriations)

HB 118 (Marshall, R. G.) would have increased sales and use tax revenue dedicated to the Transportation Trust Fund from one-half percent to three-quarters percent. (Left in House Appropriations)

HB 166 (Lingamfelter) would have established the Virginia Defense Facility and Transportation Improvement Fund and Program to be supported by \$250 million in state recordation taxes. (Tabled in House Transportation)

HB 200 (Marshall, R. G.) would have imposed fees on trucks for damage done to highways. (Tabled in House Transportation)

HB 314 (Albo) would have required assessment of fees by Department of Motor Vehicles (DMV) on certain drivers and use of the fees collected for residential and secondary road purposes. This bill has been incorporated into **HB 527** (Rust).

HB 410 (Marshall) would have provided for distribution of excess recordation taxes to the Commonwealth Transportation Board. (Left in House Appropriations)

HB 489 (Frederick) would have created the Commonwealth Transportation Investment Fund and dedicated one-third of all insurance tax revenues to it for transportation projects. (Left in House Appropriations)

HB 581 (Watts) would have increased the motor fuel tax rate by 8.5 cents per gallon and the alternative use fee for motor carriers from \$100 to \$150. Also would have provided for future indexing. (Left in House Finance)

HB 659 (Wardrup) would have dedicated recordation tax revenues not already dedicated to transportation projects. (Left in House Appropriations)

HB 660 (Wardrup) would have dedicated all insurance license taxes to transportation projects. (Left in House Appropriations)

HB 669 (Wardrup) would have increased the size and project cap for state/local "revenue-sharing" transportation improvement projects. This bill has been incorporated into **HB 681** (Scott, E.T.).

HB 683 (Rust) would have required assessment of fees by Department of Motor Vehicles (DMV) on certain drivers and use of the fees collected for the Transportation Partnership Opportunity Fund and the Local Congestion Mitigation Incentive Fund. (Stricken from the docket by House Transportation)

HB 724 (McQuigg) would have established the State-Local Intersection Partnership Program and allocated \$100 million to local governments annually for highway improvements. (Passed by indefinitely in House Transportation)

HB 911 (Oder)/**SB 307** (Williams) would have established the Urban Highway Congestion Mitigation Fund and allocated \$250 million in highway funds to make grants to cities and urban counties for congestion mitigation projects. (**HB 911** was left in House Appropriations; **SB 307** was referred for study under **SJ 60--Williams**)

HB 1436 (Lingamfelter) would have dedicated a portion of recordation tax revenue to Transportation Trust Fund. (Incorporated by House Appropriations into **HB 1257--Hugo**)

HB 1555 (Rust)/**SB 701** (Davis) would have provided new transportation funding to jurisdictions in Northern Virginia from several sources. (Left in House Appropriations) Companion bill **SB 701** was left in Senate Finance.

HB 1601 (Hull) would have increased motor fuel taxes by 5.5 cents, increased the alternative use tax for motor carriers from \$100 to \$150, and dedicated funds for transportation purposes. (Left in House Finance)

SB 64 (Whipple) would have increased the sales tax on motor fuels in Northern Virginia from two percent to four percent. (Left in Senate Finance)

SB 127 (O'Brien) would have dedicated .25 percent of the sales and use tax revenue to local transportation and .25 percent to education. (Left in Senate Finance)

SB 476 (Colgan) would have required the Commonwealth to match dollars generated by local transportation referendums. (Left in Senate Finance)

SB 555 (Stolle) would have established the Commonwealth Transportation Safety Fund, to be funded by court-ordered payments for certain offenses related to the operation of motor vehicles. Revenues could have been used to fund capital projects and operations necessary to improve roadway safety. (Incorporated by Senate Finance into **SB 393**--Stolle)

SB 630 (Cuccinelli) would have increased the sales and use tax revenue dedicated to the Transportation Trust Fund from one-half percent to three-quarters percent. (Left in Senate Finance)

SB 686 (Potts) would have established the Transportation Future Fund to support the design and construction of surface transportation infrastructure of long-term statewide significance. (Incorporated by Senate Finance into **SB 708**--Hawkins).

Transportation Allocation Formula Bills

HB 117 (Marshall, R.G.) would have replaced primary system lane miles with vehicle registrations as a factor in allocating primary highway system construction funds among the nine highway construction districts. (Left in House Transportation)

HB 119 (Marshall, R.G.) would have replaced primary system lane miles with vehicle registrations as a factor in allocating primary highway system construction funds. The bill also would have allocated primary system construction funds among the Commonwealth's 23 planning districts, rather than among the nine highway construction districts. (Left in House Transportation)

HB 165 (Lingamfelter) would have revised the formulas used to allocate primary and secondary highway construction funds so that such funds were allocated on the basis of population. (Left in House Transportation)

HB 580 (Watts) would have allocated primary system highway construction funds among the nine highway construction districts on the basis of the ratio of vehicle miles traveled on primary highways divided by the lane miles of primary highways in each highway construction district, weighted 90%, and a need factor, weighted 10%. (Left in House Transportation)

HB 1085 (Scott, J.) would have increased the percentage of Transportation Trust Fund revenues flowing to the Commonwealth Mass Transit Fund from 14.7 percent to 19 percent. (Left in House Appropriations)

HB 1397 (Wittman)/**SB 671** (Rerras) would have required the Department of Rail and Public Transportation to provide sufficient state matching funds for the federal FTA Section 5311 Rural Public Transportation program to guarantee that the local match required by the program does not exceed 25 percent. (**HB 1397** was stricken from the docket by House Appropriations; **SB 671** was stricken at request of patron in Senate Transportation)

SB 124 (O'Brien) would have revised the formulas used to allocate primary and secondary highway construction funds so that such funds are allocated on the basis of population. (Passed by indefinitely in Senate Transportation)

SB 329 (Wagner) would have revised Virginia's transportation construction and maintenance allocation system in accordance with recommendations made by the Joint Legislative Audit and Review Commission to the 2002 Session of the General Assembly. This bill has been referred for study under **SJ 60** (Williams).

Other Bills

HJ 98 (Albo) would have provided that moneys in the Commonwealth Transportation Fund, Transportation Trust Fund, and Highway Maintenance and Operating Fund shall be used for (i) administering, planning, constructing, improving, or maintaining the roads embraced in the systems of highways for the Commonwealth and its localities or furthering the interests of the Commonwealth in the areas of highways, public transportation, railways, seaports, or airports; (ii) making payments on bonds or other obligations that have been issued or entered into to finance transportation projects; or (iii) making loans to finance transportation projects. The amendment would have provided for the crediting of various sources of revenue to the transportation funds. It allowed for borrowing from transportation funds for other

purposes by a four-fifths vote of each house of the General Assembly. (Tabled in House Privileges and Elections)

SB 245 (Ticer) would have allowed certain counties or towns to regulate or prohibit overnight parking of certain vehicles on any public highway in any residential district. (Tabled in House Transportation)

WEAPONS

The following bills passed:

HB 370 (Carrico) amends existing provisions related to regulation of firearms along public highways by clarifying that the provisions apply to hunting.

HB 1106 (Athey) provides that the prohibition against carrying concealed weapons does not apply when a person is carrying such a weapon in his place of abode or the curtilage thereof. In addition, the bill creates a new exemption to the general prohibition against carrying concealed weapons by allowing a person who may lawfully possess a firearm to carry a concealed handgun in a private motor vehicle or boat.

HB 1577 (Cline) eliminates the ability of a locality to require an applicant for a concealed handgun permit to submit fingerprints as part of the renewal of an existing permit. The bill modifies the current law provision that a court may disqualify an applicant from receiving a concealed handgun permit based upon specific acts that indicate that the applicant would use a weapon unlawfully or negligently by adding a disqualifying conviction and allowing the personal knowledge of a deputy sheriff, police officer or assistant Commonwealth's Attorney to be the basis for the specific acts alleged by the sheriff, chief of police, or Commonwealth's Attorney. The bill adds a definition of personal knowledge and defines it as knowledge of a fact that a person has himself gained through his own senses or knowledge that was gained by a law-enforcement officer or prosecutor through the performance of his official duties. A permit holder who changes his address must notify the issuing court of his change of address within 30 days. The bill provides a 90-day grace period for a member of the armed forces to renew his concealed handgun permit if the permit expired during an active-duty military deployment. During the 90-day period, which begins when the person returns from deployment, the permit holder would be required to carry written documentation of the start and end dates of the deployment. The bill requires the Department of State Police, in consultation with the Supreme Court on the development of the application for a concealed handgun permit, to include a reference to the Virginia Supreme Court website address or the Virginia Reports on the application. Concealed handgun permits would no longer have to be renewed every five years if the Virginia State Police receive an appropriation sufficient to conduct a criminal background check on all valid concealed handgun permits annually. The bill creates a Class 6 felony for any person who knowingly is in possession of a revoked concealed handgun permit while in possession of a concealed handgun. This bill incorporates **House Bills 167** (Lingamfelter), **424** (Nutter), **769** (Sickles), **830** (Welch), **1401** (Carrico), and **1578** (Cline).

The following bills were continued to 2007:

HB 704 (Hogan) would provide that a county may prohibit by ordinance hunting, the discharge of firearms, and the discharge of arrows from bows within one-half mile of a subdivision or in an area so heavily populated as to make hunting dangerous. However, no ordinance regulating the discharge of firearms or bows could be more restrictive than an ordinance concerning hunting. Any ordinance adopted after January 1, 1995 concerning the discharge of firearms or hunting that is more restrictive than the provisions of the act would be invalid. Also would provide for the repeal of the existing authority used by the County to regulate the discharge of firearms and for any new replacement restrictions to be accompanied by extensive signage requirements.

The following bills failed:

HB 162 (Lingamfelter) would have prohibited a person, property owner, tenant, employer, or business entity from establishing, maintaining, or enforcing any policy or rule that would prohibit a person from storing a lawfully possessed firearm in a locked vehicle. No person, property owner, tenant, employer, or business entity would have been liable for any occurrence connected with use of a firearm that had been stored in a locked vehicle pursuant to the section. The bill also would have allowed a person to file for injunction to enforce the provisions of the section, and provided for actual damages and attorney fees for a prevailing plaintiff. The bill contained exemptions for school property, parking areas that are gated or otherwise limit public access, and vehicles owned by an employer or business entity. (Left in Senate Courts of Justice)

HB 1105 (Athey) would have amended the section requiring a person to have a valid permit to carry a concealed handgun, making it legal for a person who may lawfully possess a firearm to carry a concealed firearm so long as he informs a law-enforcement officer of his possession as soon as practicable if detained and he secures the firearm at the officer's request or allows the officer to secure the weapon. (Left in House Militia, Police, and Public Safety)

STUDIES

The following studies passed:

HB 1233 (Purkey) establishes the Manufacturing Development Commission as a legislative commission to assess the manufacturing needs in the Commonwealth and formulate legislative and regulatory remedies to ensure the future of the manufacturing sector in Virginia. The bill also provides that the Secretary of Commerce and Trade serve ex officio. The provisions of this act expire on July 1, 2009. In addition, if the Commission is not funded during its first year of study, the Joint Rules Committee must approve its expenses. However, if the Commission is not funded for any year thereafter, the provisions of this act shall expire July 1 of the fiscal year that the Commission fails to receive funding. This bill is identical to **SB 261** (Wagner).

HJ 32 (Jones, S.C.) encourages the State Board of Elections to continue its review of the Campaign Finance Disclosure Act to address issues raised during its review conducted during the 2005 interim pursuant to House Joint Resolution 667 (2005). This is a recommendation of the task force that assisted the State Board of Elections in conducting a review of the Campaign Finance Disclosure Act pursuant to House Joint Resolution 667 (2005). This resolution is the same as **SJ 75** (O'Brien).

HJ 60 (Nixon) directs the Joint Legislative Audit and Review Commission to evaluate the administration of the Comprehensive Services Act. In conducting this two-year study, the Commission shall, among other things, (i) evaluate the costs, quality, and reimbursement of children's residential services; (ii) examine the interdepartmental regulation of these facilities; (iii) assess the administration of the CSA by state and local governments; (iv) evaluate the quality and capacity of services available to and provided for CSA children; and (v) determine whether CSA children receive appropriate care, case management, education, and supervision. In each year of the study, JLARC will brief the Joint Subcommittee to Study the Cost Effectiveness of the Comprehensive Services for At-Risk Youth and Families Program established pursuant to SJR 96 (2006), and the chairmen of the House and Senate money and health committees. This study is a recommendation of the Joint Subcommittee Studying Private Youth and Single Family Group Homes in the Commonwealth pursuant to **HJ 685** (2005).

HJ 97 (Landes) requests the Department of Medical Assistance Services and the Joint Legislative Audit and Review Commission to monitor changes in the federal restrictions on sheltering assets to qualify for Medicaid long-term care services. This resolution is identical to **SJ 122** (Martin).

HJ 100 (May) directs the Joint Legislative Audit and Review Commission to study the State Corporation Commission's analysis for determining the feasibility of undergrounding electrical transmission lines. In conducting its study, the Joint Legislative Audit and Review Commission shall examine (i) the factors considered by the State Corporation Commission in its analysis of the feasibility of installing underground electrical transmission lines; (ii) the effect on property values resulting from installing underground, as opposed to overhead, transmission lines; (iii) the costs considered by the State Corporation Commission

in reviewing transmission line applications; and (iv) such other issues as it deems appropriate. This two-year study shall not be conducted unless it is funded in the Appropriation Act.

HJ 115 (Kilgore) directs the Virginia State Crime Commission to study the need for additional institutional programming at the Department of Corrections to treat sex offenders. A report on the study shall be filed no later than the first day of the 2007 Session.

HJ 116 (Kilgore) directs the Virginia State Crime Commission to study the need for regulation, training and funding of animal control officers.

HJ 124 (Orrock) encourages the Virginia Association of Counties (VACO) and the Virginia Municipal League (VML) to advise and advocate to their respective members to adopt a nuisance animal ordinance.

HJ 133 (Lewis) establishes a joint subcommittee to study long-term funding sources for the purchase of development rights to preserve open-space land and farmlands. This resolution is identical to **SJ 94** (Hanger).

HJ 136 (Moran) directs the Virginia State Crime Commission to conduct a two-year study of Virginia's juvenile justice system. The study will focus on recidivism, disproportionate minority contact with the justice system, improving the quality of and access to legal counsel, accountability in the courts, and diversion. In addition, Title 16.1 of the Code of Virginia will be analyzed to determine the adequacy and effectiveness of Virginia's statutes and procedures relating to juvenile delinquency.

HJ 158 (O'Bannon) directs the Joint Legislative Audit and Review Commission to study options for extending health insurance coverage to Virginians who are currently uninsured. In conducting the study, the Commission shall (i) analyze the number of uninsured Virginians, the reasons they do not have health insurance, the duration of periods without insurance, and their eligibility for employer-based and private health insurance coverage or government health care programs; (ii) assess the costs incurred by the Commonwealth, its insured citizens, and health care providers for the provision of emergency room or other health care to treat the uninsured population in Virginia; (iii) evaluate programs or plans implemented in other states as well as proposals that have been made by national organizations to expand health insurance coverage to the uninsured; and (iv) develop policy options to extend health insurance coverage to Virginia's uninsured that balance facilitating access to health insurance with requiring Virginians to assume greater personal responsibility for obtaining a minimum level of health insurance coverage.

HJ 183 (Athey) continues the Joint Subcommittee Studying Risk Management Plans for Physicians and Hospitals to study various aspects of medical malpractice in Virginia, which may include: (i) the effectiveness of the current statutory framework of medical malpractice panels and whether the current framework should be amended to enhance efficiency or be eliminated and replaced with other procedural vehicles such as pre-trial certification of expert witnesses to reduce nonmeritorious claims or effectively evaluate claims; (ii) the feasibility of establishing a multijurisdictional pilot health court and subsequently a system of health courts in the Commonwealth; (iii) the breadth and impact of the risk management program established by **SB 601** (2004), and (iv) effective peer review processes. This resolution incorporates **HJ 50**.

HJ 208 (Cosgrove) requests the Department of Environmental Quality, in consultation with the Environmental Protection Agency, to increase the use of on-road remote sensing of vehicle emissions to identify gross polluters and increase the percentage of vehicles that may be prescreened using on-road remote sensing of vehicle emissions in the Northern Virginia nonattainment area. The Department will report its progress to the 2007 and 2008 Regular Sessions of the General Assembly, and include information on associated costs and air quality benefits and impacts.

SJ 4 (Reynolds) directs the Joint Commission on Health Care to study the derivative effects of increases in health care costs on health insurance premiums. In conducting its study, the Joint Commission on Health Care must examine (i) the factors leading to rising health care costs in the Commonwealth, (ii) the derivative effects of rising health care costs including increases in health insurance premiums and denial of coverage, and (iii) ways to reduce health care costs in the Commonwealth and alleviate burdens associated with the rising cost of health care.

SJ 60 (Williams) establishes a joint subcommittee to study the role of the Commonwealth and its agencies in meeting Virginia's future transportation needs.

SJ 96 (Hanger) establishes a joint subcommittee to study the cost effectiveness of the Comprehensive Services for At-Risk Youth and Families program and to collaborate with the Joint Legislative and Audit Review Commission (JLARC) regarding its evaluation of the administration of the Act. The study shall be conducted in two phases. In the first phase of the study, the joint subcommittee shall review the administration of the CSA by state and local governments, including projections of caseloads, service needs and costs, quality of services provided, and make recommendations for improvement of program services and strategies for cost containment. The Commission shall, among other things, (i) evaluate the costs, quality, and reimbursement of children's residential services, (ii) examine interdepartmental regulations of these facilities, (iii) determine whether CSA children receive appropriate care, and (iv) apprise the joint subcommittee of the status of its study and findings. In the second phase of the study, the joint subcommittee and Commission shall continue their respective studies and collaboration and report their final findings and recommendations to the Governor and the 2008 Session of the General Assembly.

SJ 106 (Davis) directs the Joint Commission on Health Care to study the impact of barrier crimes laws on social service and health care employers, prospective employees, consumers, residents, patients, and clients. Specifically, the Joint Commission will (i) determine the effectiveness of barrier crimes laws in protecting consumers, residents, patients, and clients; (ii) examine the difficulty experienced by employers in service delivery agencies in finding qualified applicants and employees, as well as the difficulty experienced by prospective employees in finding jobs; (iii) compare Virginia's barrier crimes laws with laws related to criminal convictions and employment in other states; and (iv) gather data on employment discrimination based on an individual's criminal conviction record from state agencies, institutions, boards, bureaus, commissions, councils, or any instrumentality of the Commonwealth.

SJ 120 (Stolle) directs the Virginia State Crime Commission to study the monitoring of sex offenders in nursing homes and assisted living facilities. The study will examine: (i) avenues to better protect residents from sex offenders; (ii) current procedures to protect residents from other residents who may commit sex offenses due to debilitating physical and mental self-control as a result of stroke and other illnesses; (iii) the number of prisoners being released on geriatric parole; (iv) the number of registered sex offenders housed in nursing homes and assisted living facilities in Virginia; (v) notification and monitoring of sex offenders in Virginia's nursing homes and assisted living facilities; and (vi) treatment options available to sex offenders housed in nursing homes and assisted living facilities in Virginia.

SJ 185 (Norment) directs the Joint Legislative Audit and Review Commission to study the use and financing of licensed inpatient psychiatric facilities in the Commonwealth. The study shall (i) examine utilization trends, including sources of payment; (ii) evaluate the Medicaid rate-setting process for psychiatric services, services provided under temporary detention orders, and services provided by psychiatrists; (iii) evaluate the manner in which Community Services Boards contract with licensed psychiatric facilities; (iv) examine the adequacy of and funding for licensed psychiatric beds, including child and adolescent mental health services; and (v) determine any steps that can be taken to maintain appropriate and necessary licensed psychiatric services in Virginia.

The following studies were continued to 2007:

SB 635 (Howell) (SFIN) would require the Commissioner of the Department of Social Services and the Chief Medical Examiner to develop an Adult Fatality Review Team (Team) to review suspicious deaths of adults in order to create a body of information to help prevent future fatalities. The Team would be charged with reviewing the death of any incapacitated adult aged 18 or older, and any adult aged 60 or older (i) who was the subject of an adult protective services investigation or (ii) whose death was due to abuse or neglect or acts suggesting possible abuse or neglect. The bill sets forth duties, membership, confidentiality, reporting, and other requirements for the Team. The bill also excludes any information acquired during a review from the Virginia Freedom of Information Act. Similar bill **HB 969** (Ebbin) was left in House Appropriations.

HJ 129 (O'Bannon) (HRUL) would request the Department of Health to study the adequacy of emergency preparedness plans for the residents of special needs facilities that serve Virginia's senior citizens. The Department of Health would report its findings by the first day of the 2007 session.

SJ 466 (O'Brien) (SRUL) would direct the Joint Legislative Audit and Review Commission to study the impact of undocumented immigrants who are unlawfully in the United States and residing in Virginia on the state's economy and government services and resources.

SJ 73 (Quayle) (SRUL) would request the State Corporation Commission to study the feasibility of requiring the underground placement of utility distribution lines in redevelopment areas, including Conservation Plan Areas, Redevelopment Plan Areas, Revitalization Initiatives Plan Areas, Rehabilitation Districts, and Historic Districts. This resolution incorporates **SJ 25** (Locke).

SJ 93 (Stolle) (HRUL) would direct the Joint Legislative Audit and Review Commission to study staffing standards for sheriffs' departments. The study will focus on: (i) trends in personnel costs for jails based on annual reports of the Compensation Board and other pertinent data, (ii) formulas based on different jail construction criteria that will enable the Compensation Board to address staffing needs for jails, and (iii) staffing standards that accurately reflect actual workloads and requirements, including mental health and substance abuse counseling.

The following studies failed:

HB 88 (Cole) would have required that the Virginia Department of Transportation, at the request of county boards of supervisors, conduct traffic-calming studies and implement measures based on the results of such studies. (Tabled in House Transportation)

HJ 127 (Marshall, R.G.) would have established a 10-member joint subcommittee to conduct a two-year study of mass transit in the Commonwealth. (Left in House Rules)

HJR 167 (Landes) would have established a joint subcommittee to study Virginia's social services system and develop a plan for reform. The subcommittee was to (i) develop a comprehensive improvement plan for the operation and performance of Virginia's social services system and (ii) examine JLARC recommendations to improve the effectiveness of the system in helping benefit program recipients attain self-sufficiency, which will identify changes needed to improve the system, approaches and timeframes for implementing the changes, and the resources required to implement them. (Left in House Rules)

SB 16 (Marsh) would have prohibited the use of handheld mobile telephones by operators of motor vehicles while the vehicles are in motion. Exceptions were made for emergencies and use of mobile telephones by law-enforcement and emergency service personnel. The bill would not have become effective until August 1, 2006, but provided for warnings during July 2006. The bill also would have required a study by the Department of Motor Vehicles on the impact of mobile telephones on traffic safety and collection of related data by VCU's Crash Investigation Team. (Failed to report in Transportation, 3-Y 12-N)

SB 174 (Wampler) would have required the review of the terms and conditions of interim or comprehensive agreements for qualifying projects under the Public-Private Transportation and Public-Private Education Facilities and Infrastructure Acts by the appropriating body before the final execution of such agreements by the responsible public entity. "Appropriating body" was defined in the bill as the body responsible for appropriating or authorizing funding for the project. The bill also would have required specific provisions to be included in the guidelines that must be adopted by responsible public entities (RPE's) under each of the Acts. In addition, the bill would have established the Public-Private Partnership Advisory Commission to review the terms of the interim and comprehensive agreements prior to signing by state RPE's and to provide nonbinding, advisory opinions regarding the terms of such agreements. (Left in Senate General Laws and Technology)

SJ 40 (Blevins) would have requested the Department of Housing and Community Development to study whether the Uniform Statewide Building Code may be strengthened to increase public protection by (i) modifying the sound transmission coefficient ratings for sound attenuation to higher levels, (ii) developing a tiered application of the new ratings according to noise contours, and (iii) the application of advanced methods of sound attenuation through new construction and building materials. (Stricken at request of patron in Senate Rules)

SJ 48 (O'Brien) would have created a joint subcommittee comprised of five members of the House of Delegates and three members of the Senate to study the administration of the election laws by local electoral boards and registrars. The subcommittee would have examined the functions of the local electoral officials, their compensation, protections and potential for conflict of interests, and make recommendations to assure their independence. (Stricken at request of patron in Senate Rules)

SJ 71 (Quayle) would have requested the Virginia Association of Counties and Virginia Municipal League to study substituting a local option income tax in lieu of all other taxes localities currently utilize. The study would have examined the administrative savings both to taxpayers as well as local governments, the local income tax rate that would be needed, the impact to local taxpayers, as well as the desirability of such an option by Virginia's counties, cities, and towns. (Left in House Rules)

SJ 72 (Quayle) would have established a joint subcommittee to study the feasibility and costs relative to requiring the placement of certain overhead utility lines underground. (Stricken at request of patron in Senate Rules)

SJ 88 (Quayle) would have established a joint subcommittee to study the integration of transportation and land use planning. Specifically, the Commission would have considered the following issues: (i) tools the state and local governments will need to assure that the transportation infrastructure is adequate to serve increasing demand caused by a growing population; (ii) institutional arrangements that should be recommended to improve state/local coordination; (iii) incentives to encourage regional and multi-modal approaches that will be necessary to address Virginia's growing transportation problems; and (iv) ways to encourage alternative development patterns that will improve mobility through other means than motor vehicles and reduce the demands on, and the cost of maintaining, Virginia's transportation infrastructure. (Stricken from the docket by House Rules)

SJ 206 (Herring) would have requested the Department of Fire Programs and the Office of Emergency Medical Services to initiate efforts to improve the recruitment and retention of fire and rescue squad volunteers. In conducting the study, the agencies were to perform the following: (i) the Office of Emergency Medical Services shall develop management training curricula from the classes currently provided by the Office of Emergency Medical Services and the Department of Fire Programs, increase allocations from the current "\$4-for-Life" fund directed to volunteer agencies for recruitment and retention incentives, and encourage agencies to apply for Rescue Squad Assistance Fund grants for recruitment and retention incentives; and (ii) the Office of Emergency Medical Services and Department of Fire Programs shall revise their regulations to require rescue squad and fire department captains to complete management and leadership training within six months of becoming captain, as well as develop and publicize descriptive information about the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund. (Tabled in House Rules)

Immigration-Related Studies

HJ 37 would have directed the Joint Legislative Audit and Review Commission to study the Commonwealth's uninsured population. The study was to address the number of uninsured Virginians, the reasons they do not have health insurance, the duration of periods of being without insurance, their eligibility for health insurance coverage or government health care programs, the health services they utilize, and the effect that the provision of these health services has on private health insurance premiums and government spending. This resolution was incorporated into **HJ 158** (O'Bannon).

HJ 42 would have directed the Joint Commission on Health Care to study the use of foreign language interpreters in medical settings, and its effects. The study was to focus on the availability of interpreters in hospitals, free clinics, community health centers, and private offices, and the use of children as interpreters for non-English speaking family members. (Left in House Rules)

HJ 63 would have established a joint subcommittee to study immigration issues in the Commonwealth. (Left in House Rules)

SJ 47 would have established a 10-member joint subcommittee to study the impact of implementation of the federal "Real ID Act of 2005" on the Commonwealth of Virginia. (Left in Senate Transportation)

SJ 105 (Lambert) would have requested that the Board of Education consider increasing the number of

questions on Standards of Learning assessments from the framework for the Standards of Learning for history and social studies that relate to instruction pertaining to minority persons. The Board of Education would have been asked to submit an executive summary and report of its progress in meeting the request of the resolution to the 2007 Session of the General Assembly. (Stricken at request of patron in Senate Rules)